

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN
BENITEZ, CHRISTIAN LEMUS CERNA,
OMAR DEJESUS CASTILLO, MANUEL
ERNESTO PAIZ GUEVARA, and
JESUS ALEJANDRO CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 13, 2016

JURY TRIAL

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE
BY: JULIA MARTINEZ, AUSA
TOBIAS TOBLER, AUSA

OFFICIAL COURT REPORTER:

RENECIA A. SMITH-WILSON, RMR, CRR
U.S. District Court
401 Courthouse Square, 5th Floor
Alexandria, VA 22314
(703)501-1580

APPEARANCES (Continued)

FOR DEFENDANT JOSE LOPEZ TORRES

BYNUM & JENKINS, PLLC
BY: ROBERT L. JENKINS, JR., ESQ.
THE LEIVA LAW FIRM, PLC
BY: MANUEL E. LEIVA, ESQ.

FOR DEFENDANT ALVIN GAITAN BENITEZ

LAW OFFICE OF AMY LEIGH AUSTIN
BY: AMY LEIGH AUSTIN, ESQ.
SMITH & ZIMMERMAN, PLLC
BY: JEFFREY D. ZIMMERMAN, ESQ.

FOR DEFENDANT CHRISTIAN LEMUS CERNA

LAW OFFICE OF CHRISTOPHER AMOLSCH
BY: CHRISTOPHER AMOLSCH, ESQ.
FRANK SALVATO, ESQ.

FOR DEFENDANT OMAR DEJESUS CASTILLO

FIRSTPOINT LAW GROUP, PC
BY: KATHERINE MARTELL, ESQ.
OLD TOWN ADVOCATES, PC
BY: MEREDITH M. RALLS, ESQ.

FOR DEFENDANT MANUEL ERNESTO PAIZ GUEVARA

LAW OFFICE OF W. MICHAEL CHICK, JR.
BY: WILLIAM MICHAEL CHICK, JR., ESQ.

FOR DEFENDANT JESUS ALEJANDRO CHAVEZ

JEROME P. AQUINO, ESQ.
ELITA C. AMATO, ESQ.

INDEX

<u>WITNESS (Government)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Jose Garcia (Cont.)	---	6	258	
FURTHER PROCEEDINGS				282

(Court recessed)

PROCEEDINGS

(Thereupon, the following was heard in open court at 10:05 a.m.)

(Jury not present.)

THE CLERK: 1:14 criminal 306, United States versus Jose Lopez Torres, Alvin Gaitan Benitez, Christian Lemus Cerna, Omar Dejesus Castillo, Manuel Ernesto Paiz Guevara, and Jesus Alejandro Chavez; with Spanish interpreters previously sworn.

THE COURT: Good morning, everyone.

Anything I need to take up before we bring the jury out?

(No response.)

THE COURT: Okay. You can bring our jury out, Mr. Toliver. Thank you.

(Jury present at 10:06 a.m.)

THE COURT: You may be seated.

Good morning, ladies and gentlemen.

THE JURORS: Good morning.

THE COURT: Good morning, Mr. Omar Dejesus Castillo.

Good morning, Mr. Manuel Ernesto Paiz Guevara.

Good morning, Mr. Jesus Alejandro Chavez.

1 Good morning, Mr. Alvin Gaitan Benitez.

2 Good morning, Mr. Jose Lopez Torres.

3 And good morning, Mr. Christian Lemus Cerna.

4 Good morning, ladies and gentlemen.

5 Good morning, Counsel.

6 ALL COUNSEL: Good morning.

7 THE COURT: Now, before we begin and bring
8 the witness out, ladies and gentlemen, I want to alert
9 you of something.

10 So, last night I was at the gym and I may
11 have overdone it with the bike. So I may just stand up.
12 So if I stand up, it has nothing to do with the witness.
13 It is not intended to punctuate anything. It's just
14 that I'm getting ready to have a cramp and I need to
15 walk it out. And I will try to stay on this side of the
16 room so I don't interfere with the witness' testimony.

17 Can everybody agree with that? Okay. Thank
18 you very much.

19 You can bring the witness out. Thank you.

20 When you're getting old, you have to take
21 care of yourself. Exercise is very important.

22 (Witness resumed stand.)

23 THE COURT: Good morning, Mr. Garcia.

24 You may proceed, Counsel.

25 MR. LEIVA: Thank you.

1 THEREUPON, JOSE GARCIA, previously duly
2 sworn, testified further as follows:

3 CROSS-EXAMINATION (Continued)

4 BY MR. LEIVA:

5 Q. Good morning, Mr. Garcia.

6 A. Good morning.

7 Q. Mr. Garcia, I believe when we left off, I was
8 asking the question about you possibly being ordered to
9 go on a mission. But, let me go back a little bit, just
10 in case you forgot what my initial question was.

11 A. Okay.

12 Q. And again, if at any time I ask you a question
13 that you don't understand, please let me know, and I'll
14 either rephrase the question or just reask it.

15 Understood?

16 A. Okay.

17 Q. All right. So, we established that in 2006, you
18 had testified in open court.

19 A. Yes.

20 Q. And you testified in a murder case.

21 A. Yes.

22 Q. And, we also established that after you
23 testified, that several members of MS-13 had asked you
24 if you were a snitch.

25 A. Yes.

1 Q. Okay. And, from your experience with MS-13,
2 when an MS-13 member's loyalty is questioned --

3 A. Yes.

4 Q. -- is it correct that MS-13 has that member
5 commit some type of act to prove their loyalty?

6 A. Yes.

7 Q. Okay. So, in your case, since you were accused
8 of being a snitch, what act did they require you to do
9 to prove your loyalty to the gang?

10 A. It wasn't my clique. They didn't ask me to prove
11 any loyalty.

12 Q. So -- I know you said they didn't provide -- they
13 didn't ask you to provide (sic) any loyalty. My
14 question was: Did they ask you to go on a mission to
15 prove your loyalty, or to commit an act to prove your
16 loyalty?

17 A. No.

18 Q. No.

19 So, your testimony today is that even though they
20 suspected that you were a snitch, they took you at your
21 word that you were not a snitch?

22 A. Um, let me get -- get it clear to you.

23 There are cliques. If I'm Silvas, and they're
24 Park View, they cannot just come and say, "You need to
25 do a mission," because it's not from my clique. So,

1 they need to -- my clique has to decide if I need to do
2 a mission or not. It's not just an MS-13 member. It
3 has to be, always, discussed within the clique.

4 Q. I understand that.

5 But, you would agree with me that word got to
6 your clique that you may be a snitch?

7 A. Yes.

8 Q. Okay. So, with that, then, am I to understand
9 that your clique knew that there were rumors about you
10 being a snitch?

11 A. Yes.

12 Q. Okay. And, even after your clique hearing the
13 rumors, your testimony is that you did not have to prove
14 your loyalty to the gang?

15 A. Yes.

16 Q. So then, Mr. Garcia, you also testified that you
17 were eventually elevated to the first word of the
18 Silvas.

19 A. Yes.

20 Q. Right?

21 And I believe in response to Ms. Martinez's
22 question, you said that you were elevated because of
23 your experience.

24 A. Yes.

25 Q. Okay. Up to this point, we've established that

1 for the 12 years that you were in MS-13, you were not
2 involved in any crime of violence?

3 A. Um, I was, on my clique.

4 Q. You were involved in crimes of violence with your
5 clique?

6 A. Yes, minor -- I would say, we were involved --
7 really, I was driving a car for another guy for my
8 clique, and he got some stolen stuff, and I was driving
9 the car, so we got arrested for it.

10 Another time -- just, minor offenses, I would
11 say.

12 Q. All right. And, was this -- did you convey all
13 this information to your handler?

14 A. Yes.

15 Q. So, Agent Born knew about all this stuff?

16 A. Yes.

17 Q. Okay. And, these offenses that you conveyed to
18 Agent Born, were you charged with these offenses?

19 A. Yes.

20 Q. In which courts were you charged with these --

21 A. Fairfax.

22 Q. Fairfax.

23 How many times were you charged in Fairfax?

24 A. I believe it was two times.

25 Q. Two times. Okay.

1 Prior to testifying, what, if any, documents did
2 you review?

3 You reviewed the transcripts, right?

4 A. Which transcript?

5 Q. Well, the transcript that you testified to the
6 past couple of days. I'm assuming --

7 A. Yes.

8 Q. -- you reviewed those.

9 A. I did, yes.

10 Q. All right. Did you review any of the FBI notes
11 or reports?

12 A. I review all the transcripts.

13 Q. Okay.

14 A. That, all the recorded calls.

15 Q. Okay. My question is: Did you review any
16 documents titled "FBI notes" or --

17 A. Yes.

18 Q. -- incident reports?

19 A. Yes.

20 Q. Okay. And who gave you those FBI reports and
21 incident reports to review?

22 A. It was different agents, when we were reviewing
23 it.

24 Q. Okay. And when you were reviewing those reports,
25 the reports basically laid out what the government's

1 theory of the case was, right?

2 A. Um, I read what -- what was on the paper, what
3 the FBI agents -- we were reviewing it, the calls.

4 Q. I'm sorry. I think I'm -- you said you agreed
5 with what you reviewed?

6 A. Yes, I agreed with what I was reviewing.

7 Q. Okay. Did you also review what we call the grand
8 jury testimony?

9 A. Um, I don't know what you mean by "grand jury
10 testimony."

11 Q. Did you review a document where Agent Uribe
12 testified?

13 A. No, I haven't reviewed that one.

14 Q. Okay. Did you review any, any pictures, autopsy
15 pictures?

16 A. No.

17 Q. Did you review any autopsy reports?

18 A. No.

19 Q. Okay. So -- and I'm sorry, I kind of took you
20 off course. Let's go back to your status as first word.

21 So, you said you were -- it sounds like you were
22 involved in only two incidents that may be deemed crimes
23 of violence?

24 A. Fairfax, yes.

25 Q. Fairfax.

1 And what were you charged with in Fairfax?

2 A. It was grand larceny.

3 Q. Grand larceny.

4 You also testified earlier that you were not
5 involved in any type of prostitution?

6 A. No.

7 Q. Okay. You were not involved in any type of
8 extortion?

9 A. No.

10 Q. Okay. And, you had limited involvement in drug
11 distribution?

12 A. No drug distribution.

13 Q. No distribution. Okay.

14 So, when you testified that you were elevated
15 based on your experience, what experience are you
16 referring to?

17 A. Well, since 2002, I knew a lot of guys, I knew a
18 lot of people that they got deported to El Salvador. So
19 I was pretty much, I would say, one of the few that stay
20 in Virginia and knew a lot of people that were in
21 Virginia. And someone had got killed, someone had got
22 deported.

23 Q. So, would you agree with me that when you say
24 "experience," you also mean your reputation within the
25 gang --

1 A. Yes.

2 Q. -- helped you get elevated --

3 A. Yes.

4 Q. -- right?

5 So, since -- I'm assuming, based on what you're
6 just testifying today, that you really didn't commit
7 many criminal acts --

8 A. Huh-un.

9 Q. -- would it be fair to say that you bolstered
10 about your reputation?

11 A. Not bluster. It's just -- I would say I was
12 not -- I always got into the fight within the gang,
13 because I kind of -- I always have issue with the
14 different cliques, always. So, that's kind of was my
15 reputation.

16 Q. When you say you had issue with different
17 cliques, you mean that you would get in fights with
18 different cliques?

19 A. Yes.

20 Q. Okay. So, then the reputation you had was as a
21 tough guy?

22 A. Kind of, yes.

23 Q. All right. A guy who would throw it down on
24 behalf of your clique?

25 A. Yes.

1 Q. And, I'm assuming that you would brag to members
2 of your clique about what you would do or say to these
3 other gang members, right?

4 A. No.

5 Q. No?

6 A. Huh-un.

7 Q. All right. So, you're testifying that just other
8 people were present and were able to see your conduct?

9 A. Yes. I wasn't bragging about it. It was nothing
10 to brag about, to tell you the truth.

11 Q. Do you have tattoos, Mr. Garcia?

12 A. I don't feel comfortable with answering that
13 question.

14 Q. You have MS-13 tattoos, do you not?

15 A. No.

16 Q. You don't have an MS-13 tattoo on your back?

17 A. No.

18 Q. You don't have an MS-13 tattoo on your shoulder?

19 A. No.

20 Q. All right. Well, other than the name of
21 people -- if that's what's making you uncomfortable, I'm
22 not going to ask you that -- what kind of tattoos do you
23 have?

24 A. I just have SLS.

25 Q. SLS.

1 A. Yes.

2 Q. Okay. And where do you have the SLS tattoos?

3 A. My back.

4 Q. On your back.

5 And correct me if I'm wrong, but one of the MS-13
6 rules, right -- there are rules about what kind of
7 tattoos you can get?

8 A. There is rules.

9 Q. And, there is rules where you can get these
10 tattoos placed on your body.

11 A. Yes.

12 Q. Okay. And, please explain to the members of the
13 jury what the significance is of getting a tattoo in the
14 location that you have?

15 A. It's just you're getting a tattoo on your back.
16 There is no meaning at all.

17 Q. So you didn't earn that location --

18 A. No.

19 Q. -- within your clique?

20 A. No. And one of the rules would be that you had
21 to have the "MS" first, you have to earn the MS first in
22 order for you to have tattoos of MS.

23 Q. All right. So, Mr. Garcia, you're a first word
24 of the Silvas clique, right?

25 What were your duties as the first word of Silvas

1 clique?

2 A. Just listen to what my members or my clique, they
3 wanted to do. Sometimes I ask them for money from El
4 Salvador, from within the clique here in Virginia.

5 Q. All right. So, one of your duties was to send
6 money to El Salvador?

7 A. Yes.

8 Q. Okay. So, that means, then, you had to collect
9 money?

10 A. Yes.

11 Q. Okay. So, were you responsible for collecting
12 money from the extortion that your homeboys committed?

13 A. As far as I know, we didn't -- I -- we -- we paid
14 dues every month, and sometimes that money we used to
15 send to El Salvador.

16 Q. My question was: Was one of your duties to
17 collect extortion money that your soldiers or homeboys
18 from Silvas collected from people?

19 A. No.

20 Q. Did your duties include collecting money from the
21 drug sales that your homeboys would be involved in?

22 A. No.

23 Q. Did your duties include collecting money from any
24 prostitution that your homeboys were involved in?

25 A. No.

1 Q. Okay. So, it sounds like, at least when you were
2 the leader of your clique, there wasn't really much
3 criminal activity going on.

4 A. No. I was always talk to my handle for any --
5 any situation, the -- any criminal activity that I
6 thought that could have happen, I always talk to them
7 first and see what we could do, in order not to do
8 anything that I was not able to do.

9 Q. Well, was your clique involved in criminal
10 activities while you were running the clique?

11 A. Yes.

12 Q. Okay. What type of criminal activities was your
13 clique involved in while you were running the clique?

14 A. Yes. Some of them were buying drugs. Some of
15 them -- they were looking for money, or stealing money,
16 I would say.

17 Q. And, you, as the leader of the clique, would have
18 to okay that conduct, right?

19 A. Not really, not all the time. I -- pretty much I
20 always told them, like, come up with excuses and try to
21 buy time.

22 Q. Well, you said that word several times, that
23 term, "buying time." It looks like you bought time for
24 12 years.

25 A. Like I said, 12 years doesn't mean that I was on

1 the street 24/7.

2 Q. All right. So, it sounds like -- and excuse me
3 for using this term, but I believe you used it before,
4 that you were kind of like a useless member to the Silva
5 clique, because you really didn't do anything?

6 A. At some point, yeah, I --

7 Q. Okay. Well, help me understand this. Because I
8 believe that in response to one of Ms. Martinez's
9 questions, you said that if a homeboy was useless to the
10 clique, he would be killed.

11 A. Yes.

12 Q. But you're still here, right?

13 A. Yes.

14 Q. As the first word of Silvas, you were also
15 responsible for recruits, right?

16 A. Yes.

17 Q. All right. Not only recruiting them, but also, I
18 guess, walking with them and teaching them the way of
19 the Mara?

20 A. Not recruiting them, going myself and ask if he
21 wants to be a part of that clique. I never did that.

22 Q. So -- but, once someone said that they wanted to
23 be a recruit, in other words, once someone was a
24 *chequeo* --

25 A. Yes.

1 Q. -- with the Silva crew, you would be responsible
2 for them, right?

3 A. I would be responsible for whoever brought that
4 *chequeo* to the clique.

5 Q. All right. And, you had about, what, about five
6 *chequeos* when you were the leader of the Silvas clique?

7 A. It was -- it was only two.

8 Q. Two *chequeos*. All right.

9 And, did you order any of the *chequeos* to commit
10 a murder in order to reach homeboy status?

11 A. No.

12 Q. So, you didn't do that, either?

13 A. No.

14 Q. Now, at some point, Mr. Garcia, you were given
15 the responsibility of running East Coast program, right?

16 A. Yes. But I didn't -- I didn't took it.

17 Q. All right. Let's start first with the East Coast
18 program. Explain to the Judge Lee and the members of
19 the jury, the East Coast program included most of the
20 states on the East Coast, right?

21 A. Yes.

22 Q. Including North Carolina?

23 A. Yes.

24 Q. Virginia?

25 A. Yes.

1 Q. Maryland?

2 A. Yes.

3 Q. DC?

4 A. Yes.

5 Q. New York?

6 A. Yes.

7 Q. New Jersey?

8 A. I don't know about New Jersey.

9 Q. All right. Pennsylvania?

10 A. I don't know. I cannot --

11 Q. All right.

12 A. -- I don't know about.

13 Q. So, being asked to run the East Coast program of
14 MS-13 was a big deal, right?

15 A. Yes.

16 Q. All right. And, you were asked to run the East
17 Coast program?

18 A. At some point, but not from -- it was from a gang
19 member from Park View.

20 Q. All right. So, at some point, someone deemed
21 that you were good enough that you should be given this
22 responsibility of running a multistate gang, right?

23 A. Yes.

24 Q. Okay. And, the way you achieve that is you've
25 got impress the leaders, right?

1 A. Um, I -- I didn't have to impress nobody. I
2 just, like I say, I just knew how to talk to them.

3 Q. All right. And when you say you knew how to talk
4 to them, you meant you knew how to talk a big game,
5 right?

6 A. Yes.

7 Q. All right. You knew how to brag about things,
8 right?

9 A. I didn't brag about anything.

10 Q. Well, when I say you talked a big game, you put
11 yourself out there as a big shot, right?

12 A. No, I didn't put myself as a big shot.

13 Q. All right. So, just help me understand this.
14 So, you -- you don't really do much, and then you're
15 elevated to the head of the SLS clique, right?

16 A. Yes.

17 Q. And, you still don't do much, and then you're
18 asked to run the East Coast program for the MS-13.

19 A. Yeah, that's --

20 MS. MARTINEZ: Compound question.

21 THE WITNESS: Like I say, they --

22 THE COURT: Just a second. Just a second.

23 MR. LEIVA: Your Honor, he said yes -- he
24 noddod yes to the first part, and that's when I went to
25 the second part.

1 THE COURT: But it's not clear what part he
2 was answering. If you would ask one question at a time.
3 Thank you.

4 Objection stained.

5 MR. LEIVA: Yes, Your Honor.

6 BY MR. LEIVA:

7 Q. Let me go back, Mr. Garcia.

8 So, your testimony was that you didn't really do
9 much in the way of criminal activity, right?

10 A. Yes.

11 Q. Yet you were elevated to the head of the clique,
12 SLS clique?

13 A. Yes.

14 Q. Okay. And then while head of the SLS clique, you
15 didn't really get involved in too much criminal activity
16 as well?

17 A. Yes.

18 Q. And then you were eventually asked to head the
19 East Coast program of MS-13?

20 A. I was asked for a -- a Park View gang member.

21 Q. Okay. All right. And, you also attended
22 leadership meetings?

23 A. Yes.

24 Q. And, you also were involved in conference calls
25 with the *mesa* or would otherwise be like the board of

1 directors of MS-13?

2 A. Yes.

3 Q. And, you were invited to sit in on those
4 conference calls with the *mesa*, right?

5 A. Not really. I -- I wasn't invited. There was a
6 gang member from Park View that he was invited to the
7 *mesa*, and he sometimes usually call me, chose for me to
8 listen to what they had to say.

9 Q. Well, you -- there was a -- there was question
10 from Ms. Martinez about you and Big Payaso (sic) having
11 conversations, right?

12 A. Yes.

13 Q. And Big Payaso is a big deal, isn't it?

14 A. Yes.

15 Q. All right. And, Big Payaso is in El Salvador,
16 right?

17 A. I don't know if -- last thing I know he was in
18 jail.

19 Q. In El Salvador?

20 A. Yes -- no, no. Over here.

21 Q. Over here.

22 (Counsel conferring.)

23 BY MR. LEIVA:

24 Q. I'm sorry. Big Poison. You had a -- a phone
25 conversation with Big Poison, right?

1 A. Yes.

2 Q. And Big Poison is a big deal?

3 A. Yes.

4 Q. Okay. Big Poison is in El Salvador?

5 A. Yes.

6 Q. And not everyone gets to talk to Big Poison?

7 A. Actually, not -- not really. Big Poison is the
8 type of person that he like to use whoever he can use to
9 get money.

10 Q. And Big Poison just uses leaders. He will only
11 talk to leaders of the clique?

12 A. He will talk to whoever he wants in order to get
13 what he wants.

14 Q. And, in these meetings that you would have with
15 the leadership -- and let's -- I'm sorry. Maybe I'm
16 confusing things. Let's make things clear.

17 You have meetings where you physically attend,
18 right?

19 A. Yes.

20 Q. And those meetings, it would be the head of the
21 cliques that would attend, right?

22 A. Yes.

23 Q. And you guys would discuss MS-13 business?

24 A. Yes.

25 Q. All right. You guys would discuss drug

1 distribution, right?

2 A. Yes.

3 Q. You guys would discuss which clique would be
4 granted certain -- certain sectors to run, right?

5 A. Yes.

6 Q. Okay. And you guys would also discuss other
7 illegal activities as well, other illegal businesses?

8 A. Yes.

9 Q. And you guys would also discuss if any punishment
10 needed to be handed down, right?

11 A. Yes.

12 Q. And you guys would also discuss any green lights
13 that needed to be decided to send to El Salvador, to see
14 if you could get approval?

15 A. Yes.

16 Q. And is it your testimony, Mr. Garcia, that
17 everything that was discussed in those meetings, all
18 those criminal activities that were discussed, you told
19 that to your handler?

20 A. Yes. Actually, I always have a device to record
21 those meetings.

22 Q. But, before you started recording -- are you
23 telling us that for the last ten years you've always had
24 a recording device on you?

25 A. Most of the time, yes.

1 Q. So, I'm assuming, then, you had a whole treasure
2 trove of criminal activity that you reported back to
3 your handler?

4 A. Yes, always.

5 Q. All right. And, of all that information that you
6 gave to your handler, not including this case, how many
7 charges were brought against people?

8 A. I can't recall that.

9 Q. This is only your second time testifying, isn't
10 it?

11 A. Yes.

12 Q. All right. So, from '06 till today, you never
13 testified at all?

14 A. No.

15 Q. And, you never inquired with your handler, "Hey,
16 why is it that I'm giving all this information on
17 criminal activity, yet you're not charging anybody?"

18 A. Um, I didn't ask that many questions, to tell you
19 the truth.

20 Q. You recall attending a meeting in Arlington with
21 members of Park View, in a restaurant?

22 A. With just Park View?

23 Q. I think there were other -- other people there as
24 well, other members of MS-13.

25 A. Yes.

1 Q. Okay. And, do you recall at that meeting that
2 another member of MS-13 pulled a knife on you?

3 A. Yes.

4 Q. Okay. All right. And, you instructed everyone
5 that he needed to be punished for breaking the rule and
6 pulling a knife out on you, right?

7 A. I didn't instruct. I said that was disrespect
8 for what I did.

9 Q. And then you followed up with saying he has to
10 receive a *calentón*, right?

11 A. Everybody has to decide if he gets a *calentón*.
12 That wasn't my decision.

13 Q. A *calentón* is a beat down, right?

14 A. Yes.

15 Q. Okay. And, you brought it to everyone's
16 attention that this homeboy had violated a rule by
17 pulling a knife out on you?

18 A. I didn't bring it to their attention. Everybody
19 saw -- everybody saw what he did.

20 Q. All right. And, you suggested to everyone that
21 he receive a 26 second *calentón*, right?

22 A. Not that I recall.

23 Q. You don't recall.

24 Did you do anything to stop this homeboy
25 receiving a beat down?

1 A. No.

2 Q. But you knew it was going to happen, right?

3 A. Yes.

4 Q. Did you know Scorpion, from your gang, from your
5 clique?

6 A. Yes.

7 Q. Eric Tusios Lazos (phonetics)?

8 A. Yeah.

9 Q. Okay. And he was involved in the murder, was he
10 not, or in a plan to kill somebody?

11 A. Not that I know of.

12 Q. Okay. So, you're not aware that Scorpion was
13 convicted --

14 A. I know he --

15 Q. -- of attempted murder?

16 A. -- was convicted, but I didn't know the details.

17 Q. All right. So you don't know that he was
18 convicted in '07 for planning someone's murder, sometime
19 around '07, '08?

20 A. No, I don't know the details. I know he was
21 convicted, but I don't know the details.

22 Q. So you didn't tell Agent Born that you had
23 information about an attempted murder, about one of your
24 homeboys?

25 A. Yes, I did, but, I say, I don't know the details,

1 actually, what happened on the -- if he got convicted or
2 how long he's going to be in jail. I don't have the
3 details.

4 Q. So you're telling us that you did tell Agent Born
5 about that?

6 A. Yes, yes, I did.

7 Q. So you told Agent Born about that?

8 A. Yes.

9 Q. He went to trial, but you weren't required to
10 testify?

11 A. No.

12 Q. Okay. And, after Scorpion gets convicted, and
13 there were already rumors about you being a snitch, did
14 anybody come up to you and say, "Hey, we think you
15 snitched on Scorpion"?

16 A. Nobody said that.

17 Q. No?

18 A. No.

19 Q. Now, let's go over a little bit -- over the
20 transcripts that you testified to. And I'm just going
21 to ask you just general questions, rather than going
22 line by line, if that's okay with you.

23 So, in your conversations with the different
24 defendants, they use code words a lot, right?

25 A. Yes.

1 Q. I think you said that a chicken represented
2 Lagrima --

3 A. Yeah.

4 Q. -- right?

5 Little chicken represented Little Guasón?

6 A. Yes.

7 Q. Gerson Martinez?

8 A. Yes.

9 Q. Okay. That "cooking" meant to kill somebody,
10 right?

11 Or, I'm sorry, "eating at a restaurant" or
12 "eating" meant -- was code for killing someone?

13 A. Yes.

14 Q. And so, there was a lot of code that was used
15 when they were talking about bad things?

16 A. Yes.

17 Q. Okay. We also, yesterday, went through a list of
18 other words that members use to signify green light. Do
19 you remember that?

20 A. Yes.

21 Q. Please tell us what *pega* means, what -- it's a
22 verb in Spanish, isn't it?

23 A. Yes.

24 Q. P-e-g-a.

25 A. Say that again?

1 Q. *Pega*?

2 A. *Bega*?

3 Q. *Pega*, with a P.

4 A. Okay.

5 Q. All right? And, *pega* is a verb. Do you agree
6 with that?

7 A. Um, but, I'm not following the question, *pega*, of
8 what you trying to -- to ask.

9 Q. Let me ask you this --

10 A. Is it *pegar*?

11 Q. *Pega* is a verb that means to hit, right?

12 A. You mean *pegar*? *Pegar* is the -- that's the word
13 that you use, *pegar*.

14 Q. Okay. *Pegar*.

15 MS. MARTINEZ: Can we get the spelling, for
16 the record, both of these words that counsel and what
17 the witness are using?

18 MR. LEIVA: *Pegar* is p-e-g-a-r. And I
19 believe I already spelled *pega*.

20 BY MR. LEIVA:

21 Q. And, when *pegar* is used among MS-13 members, it
22 can mean a variety of things, right?

23 A. *Pegar* means -- it means kill.

24 Q. Okay. Well, let's start this way: *Pegar* means
25 hit. You would agree with that?

1 A. Yes.

2 Q. Okay. All right. And your testimony is that
3 when MS-13 members use the word "hit," they literally
4 mean a hit, to kill somebody?

5 A. Yes.

6 Q. Okay. So, would you agree with me, that *pegar*
7 also means to beat up somebody, to attack somebody?

8 A. Not in, in gang terms.

9 Q. Okay. Well, here's where I'm a little confused
10 then, Mr. Garcia.

11 A. Yes.

12 Q. We have all this code being used, right, to
13 describe bad things?

14 A. Yes.

15 Q. But, when there's someone talking about an actual
16 hit, they use the actual word "hit"; is that what your
17 testimony is?

18 A. Yes. They use hit, they use *pegar*, *pegar*, in
19 gang terms. I can't talk to a regular person and say
20 *pegar* means, like you say, hit. But in gangs, it means
21 one thing.

22 Q. But there is no -- that's not even code, is it?
23 *Pegar* --

24 A. No, no.

25 Q. -- if it means hit?

1 A. It's a word.

2 Q. It's a word.

3 A. Yes.

4 Q. And it's a word that's clear to everyone, right?

5 A. Yes.

6 Q. So, it seems kind of ridiculous that these guys
7 would use all this code, but on the one -- on an
8 incriminating word they don't even use code, they just
9 say hit.

10 A. Yeah.

11 Q. That's why I'm asking you: Hit can also mean to
12 beat up someone, can't it?

13 A. No.

14 Q. Now, you were involved with the particular
15 group -- and when I say "this particular group," I mean
16 Park View -- starting in July 2013?

17 A. Somewhere around there.

18 Q. And you were asked by a high -- someone high up
19 in Park View to help organize these guys, right?

20 A. Just to -- because, Payaso knew that I knew a lot
21 of people back in the days, and, at that time, old Park
22 View, they didn't know anything about who was in
23 Virginia before.

24 Q. Right. And when you say that "Payaso knew that I
25 knew a whole lot of people," you mean that you knew a

1 lot of important people?

2 A. Yes.

3 Q. A lot of people in high leadership positions in
4 MS-13?

5 A. Yes.

6 Q. People who were here in the United States, right?

7 A. Yes.

8 Q. And, people who were also in El Salvador?

9 A. Yes.

10 Q. Okay. So, Payaso asked you, I'm assuming --
11 well, correct me if I'm wrong -- based on your
12 experience, to come over here and help organize these
13 guys?

14 A. No. No.

15 Q. No to what?

16 A. He didn't ask me that.

17 Q. He asked you to help run this particular crew,
18 right?

19 A. No.

20 Q. So what did he do, just ask you to kind of
21 baby-sit them and watch what they're doing?

22 A. No. He just -- he just asked me to back them up
23 on anything when they have those big meetings, and
24 sometimes they didn't know how to talk, and someone --
25 if they see, they see them as they're -- they're not

1 capable of -- of running things how they want it run.
2 That's all.

3 Q. All right. And, would it be fair for me to
4 assume that the reason Payaso asked you was because you
5 had a proven record of being able to run things?

6 A. Um, no, not -- not that I know that he knows.

7 Q. All right. And when he asked you, you agreed,
8 right?

9 A. Yes.

10 Q. Okay. So, this was back sometime in July of
11 2013?

12 A. Yes.

13 Q. All right. And, when you introduced yourself to
14 the members of Park View, you told them that you were
15 there with the blessing of either Payaso or some other
16 members --

17 A. Actually, Payaso was the one who introduced me to
18 them.

19 Q. All right. And Payaso told them that they needed
20 to listen to you, right?

21 A. Yeah, in case, if any question or anything, they
22 can call me, or they actually pretty much they -- he
23 told them that --

24 Q. Anything they --

25 A. -- anything that --

1 Q. Any questions?

2 A. -- any questions they have.

3 MS. MARTINEZ: Objection. He should be
4 allowed to complete his answer.

5 THE COURT: Let him answer, Mr. Leiva.

6 BY MR. LEIVA:

7 Q. You said any questions?

8 A. Any questions that they have.

9 Q. So, when you say any questions that they had, to
10 you that meant any questions they had about things that
11 they should be doing or not doing?

12 A. No.

13 Q. Questions -- well, what kind of questions did you
14 envision you would be assisting them with?

15 A. There were questions because they didn't know who
16 was in Culmore before. So at that time they have a big
17 problem. Nobody wanted probably to be in Culmore. They
18 wanted to be somewhere else. So, they have a lot of
19 back and forth about the sectors.

20 Q. And, and, at some point, Payaso got locked up,
21 right?

22 A. Big Payaso or --

23 Q. Payaso, who introduced you to the members of Park
24 View?

25 A. He was locked up -- he been before the meeting,

1 introduce me.

2 Q. He did what? I'm sorry.

3 A. He was locked up before he introduced me to these
4 guys.

5 Q. Okay. So, would it be fair to say then that
6 Payaso, since he was locked up --

7 A. Yes.

8 Q. -- asked you for a favor just to watch over these
9 guys?

10 A. Yes.

11 Q. And he also asked that they run all decisions
12 through you as well?

13 A. No.

14 Q. He asked, then, that they at least consult with
15 you for some of the decisions that needed to be made?

16 A. If they have a question, if they feel like it.
17 No reason. It wasn't a must.

18 Q. All right. So, you were involved with this gang
19 starting in July 2013?

20 A. Yes.

21 Q. So, I'm assuming, then, Mr. Garcia, since you
22 were involved with them since July of 2013, you started
23 hearing rumors about a possible punishment on Lagrima.

24 A. Yes.

25 Q. And, when did you hear about a possible

1 punishment on Lagrima?

2 A. Around 2013. I cannot recall the exact --

3 Q. Sometime in July --

4 A. I can't --

5 Q. -- August, September?

6 A. I don't remember the exact date.

7 Q. And, if there was a decision that needed to be
8 made as far as killing Lagrima, that's something that
9 you would have been consulted with?

10 A. Nope.

11 Q. So, Payaso is in jail, right? We established
12 that?

13 A. Yes.

14 Q. Payaso asked, you because he was in jail, to
15 watch over these guys, right?

16 A. Yes.

17 Q. Payaso asked you to help them with any questions
18 they had, right?

19 A. Yeah. If they feel like asking a question, yes.

20 Q. And, it's your testimony that such a big decision
21 as killing one of their own members, that wasn't asked
22 of you for your opinion?

23 A. No. Those decisions they made within the clique,
24 and I was not a part of this clique.

25 Q. What about the punishment that was going to be

1 given to Peligroso?

2 A. I didn't know --

3 Q. You didn't know that either?

4 A. No.

5 Q. No one reached out to you about that?

6 A. No.

7 Q. Now, it was clear from the transcripts that --
8 that these guys, they would talk to you with no problem,
9 right?

10 A. Yes.

11 Q. And, it wasn't because you were really a nice guy
12 to them; it was because of your position within the gang
13 that they would come to you?

14 A. Like I said, they -- Payaso introduced --
15 introduced me to them. So, Payaso was the one who run
16 the clique from inside at that point.

17 Q. So you were given a position of trust with these
18 guys?

19 A. Pretty much, yes.

20 Q. And that -- and I'm assuming they also knew about
21 your reputation, right?

22 A. Yes.

23 Q. And they also knew of the people that you knew
24 who were high up in the organization?

25 A. Yes.

1 Q. And, going back to your days when you were a
2 homeboy, you would want to earn the respect of your
3 first word and the second word of your clique, right?

4 A. Nope. To tell you the truth, we -- Silvas clique
5 pretty much they started in Virginia, so we all started
6 pretty much at the same age. We didn't have anybody in
7 El Salvador that we can say, oh, he was higher than, or
8 bigger than us.

9 So, we all started pretty much at the same age,
10 so, I didn't have to impress anybody and, or try to earn
11 the respect of anybody.

12 Q. But, it sounds, given the different positions
13 that you were offered, that you were well respected
14 within MS-13.

15 A. I'm sorry. Repeat that again.

16 Q. It sounds, given the different leadership
17 positions that you were offered --

18 A. Yes.

19 Q. -- that you were well respected within MS-13.

20 A. Yes.

21 Q. All right. And, would you agree with me that
22 your experience is that the homeboys want to win the
23 respect of the leaders?

24 A. Yes.

25 Q. And so, when you were talking to several of these

1 young men, didn't it seem to you that they were trying
2 to get your respect by telling you what they had done?

3 A. Um, they were bragging about it. I'm not sure if
4 they were trying to earn my respect or what, but they
5 were -- just want to start bragging about it.

6 Q. But you would agree with me, they were talking
7 too much, right?

8 A. Sometimes they talk, and sometimes you can assume
9 that they talk too much, but, not all the time.

10 Q. But I'm assuming, given your 12 years of
11 experience within MS-13, something inside you must have
12 said: These guys are talking way too much. They really
13 want me to respect them.

14 A. Yeah, sometimes, yes.

15 Q. Mr. Garcia, if I could have you look at
16 Government's Exhibit -- if I can find it real quick.

17 Actually, before I do that, I think -- you've
18 agreed, and it's come out, that you've been paid by the
19 FBI to work as an informant, right?

20 A. Yes.

21 Q. Okay. And, when you were applying for your --
22 was it a permanent resident status? Is that what you
23 were applying for?

24 A. Yes.

25 Q. Okay. Did the government tell you that they

1 would not report certain things about you that would
2 prevent you from getting this legal permanent residency
3 status?

4 A. No.

5 Q. Well, do you recall filling out the application
6 for your permanent residency status?

7 A. Um, you mean -- to who?

8 Q. With the U.S. Government.

9 A. Yes.

10 Q. You recall filling out an application from
11 Homeland Security?

12 A. Yes.

13 Q. Okay. And, do you recall being asked on the
14 application: "Have you ever, in or outside the United
15 States, knowingly committed any crime of moral turpitude
16 for a drug related offense for which you have not been
17 arrested?"

18 Do you remember being asked that question?

19 A. My lawyer fill out all the application. I had a
20 lawyer, so --

21 Q. I understand you may have had a lawyer.

22 A. Yes.

23 Q. But the lawyer, I'm assuming, asked you --

24 A. Yeah. With the paperwork, I gave all the
25 paperwork to my lawyer.

1 Q. I'm assuming that when -- well, your lawyer was
2 helping you fill out this application --

3 A. Yes.

4 Q. -- your lawyer asked you what the answer was to
5 that question?

6 A. Yes.

7 Q. Okay. And, you wrote down what?

8 A. I -- I tell the truth. What was --

9 Q. So, you wrote down that you did --

10 A. Yes.

11 Q. -- commit crimes of moral turpitude or drug
12 related offenses?

13 A. No drug related offenses.

14 Q. Okay. Question also -- another question on the
15 application is: "Have you ever, in or outside the
16 United States, been arrested, cited, charged, indicted,
17 convicted, fined or imprisoned for breaking or violating
18 any law or ordinance, excluding traffic violations?"

19 Do you recall how you answered that?

20 A. Yes.

21 Q. You answered by telling the truth, yes?

22 A. Yes.

23 Q. All right. Do you recall in the application
24 being asked: "Have you ever engaged in any unlawful
25 commercialized vice, including, but not limited to,

1 illegal gambling?"

2 A. No.

3 Q. Okay. No, you don't remember that question --

4 A. I don't --

5 Q. -- or no, you didn't participate in that
6 activity?

7 A. I don't remember that question.

8 Q. Okay. What about this question: "Have you ever
9 illicitly trafficked in any controlled substances or
10 knowingly assisted, abetted or colluded in the illicit
11 trafficking of any controlled substances?"

12 A. No.

13 Q. No, you don't recall that question, or no, you
14 did not participate?

15 A. I did not participate.

16 Q. You wrote no?

17 A. Yes.

18 Q. Okay. So, let me ask you about that, since you
19 responded no.

20 I believe on -- in response to Ms. Martinez's
21 question, you said that there were times when you
22 received drugs and gave that to your handler.

23 A. Yes.

24 Q. Okay. And, you also testified that there were
25 times when you received cash payments and you gave that

1 to your handler.

2 A. Yes.

3 Q. Okay. How many times would you say that you gave
4 drugs to your handler?

5 A. Just the time that I was allowed, through them.

6 Q. So, about five times?

7 A. I can't recall how many times.

8 Q. Okay. It's enough that you just don't remember
9 how many times?

10 A. I just don't remember exactly how many times.

11 Q. Okay. What about cash; how many times do you
12 recall giving your handler cash?

13 A. Cash, giving -- I don't recall giving my handler
14 cash.

15 Q. I thought you said that on direct. Maybe I'm
16 mistaken.

17 A. I'm sorry. Say that again.

18 Q. At some time, when you would receive money, you
19 would just give it to your handler.

20 A. No, no, I don't -- I never gave money to my
21 handler.

22 Q. When I mean money, I don't mean to pay off, but I
23 mean, you received money from the gang, and rather than
24 hold on to it or send it to someone in El Salvador, you
25 just gave it to her so you wouldn't get in trouble?

1 A. No, not that I remember.

2 Q. Okay. Other than drugs, what else did you give
3 your handler?

4 A. All the information.

5 Q. No weapons?

6 A. Weapons, yes.

7 Q. Okay. How many times did you give your handler
8 weapons?

9 A. I remember one, one or two -- actually, it was
10 two times.

11 Q. Two times.

12 So you gave your handler weapons on at least two
13 occasions, and you don't remember how many times you
14 gave her drugs?

15 A. Yes. I mean, give her drugs, you said?

16 Q. Yeah. You gave -- I don't mean for her to use
17 it.

18 A. Okay.

19 Q. But, you had -- you were given drugs in your
20 capacity as a member of SLS, and you just gave it to her
21 rather than hold on to it?

22 A. I was allowed through them to probably purchase
23 amount of drug, but always was through them. So, it's
24 not like I go myself and buy the drug and give the money
25 or the drugs.

1 Q. I understand. So what you're saying is that you
2 would purchase drugs on behalf of SLS, right?

3 And then you would give it to your handler?

4 MS. MARTINEZ: Objection, compound question.

5 THE COURT: Sustained.

6 BY MR. LEIVA:

7 Q. You would buy drugs through SLS?

8 A. Um, I would buy drugs when I was approved through
9 FBI.

10 Q. Okay. I understand that. So, the FBI would
11 approve for you to buy drugs as a member of SLS?

12 A. Yes.

13 Q. On behalf of SLS?

14 A. Yes.

15 Q. Okay. And, once you obtained those drugs, you
16 then gave it to your handler?

17 A. I did give it to the handler.

18 Q. Okay. And you just don't recall how many times
19 you did that?

20 A. I don't. I didn't do it that many times.

21 Q. Okay. Now, another rule that you testified to,
22 that a member of MS-13 could receive death as punishment
23 is if you steal from the gang, right?

24 A. Yes.

25 Q. Okay. So, then, on several different occasions,

1 on behalf of SLS, you bought drugs --

2 A. Yes.

3 Q. -- right?

4 Gave it to your handler, right?

5 A. Yes.

6 Q. So, those drugs must have been missing, right?

7 A. Yes -- I mean, but those drugs or the money has
8 nothing to do with the SLS clique.

9 Q. All right. But you just said that you bought
10 drugs on behalf of SLS.

11 A. On behalf. If there was a guy who was selling,
12 obviously, that person knew that you were from a gang.

13 Q. Yes. And --

14 A. But I wasn't on behalf of SLS.

15 Q. What I mean by "on behalf," I mean that you were
16 buying it, right --

17 A. Uh-huh.

18 Q. -- under the guise -- do you know what the word
19 "guise" means?

20 A. Yes, I know.

21 Q. -- under the guise that you were buying it for
22 your own crew, for your own --

23 A. Oh, I wasn't buying it -- I wasn't buying it
24 to -- for my own clique. I wasn't buying it like,
25 personal, so, that has nothing to do with the clique.

1 Q. So, here's where I'm confused. You're saying you
2 bought it for your personal --

3 A. No, when I was doing it through FBI, and this
4 person tried to sell drugs, so I buy -- I bought them,
5 but not to make a business within the clique. It was,
6 as soon as I buy them, give it to my handler.

7 Q. So, just to clear things up, your testimony is
8 that you never purchased drugs on behalf of SLS?

9 A. No.

10 Q. Another question on the immigration application,
11 you were asked to list your present and past memberships
12 "in, or affiliation with, every organization,
13 association, party, club, society or similar group in
14 the United States."

15 Do you recall listing MS-13?

16 A. Yeah, I remember that.

17 Q. Okay. So we're clear, you listed MS-13 on your
18 immigration application?

19 A. I talked to my lawyer and he was doing the
20 paperwork. So we talked.

21 Q. All right. So you listed MS-13 on your
22 immigration application, right?

23 A. Not myself. Like I say, I have a lawyer and he
24 knew what I had to do.

25 Q. I understand.

1 A. I could have said -- he knew that I was part of
2 it. I don't know how he list it or what he says.

3 Q. You reviewed this application before it was sent
4 in to Homeland Security.

5 A. Um, the first time, yes.

6 Q. You signed an application?

7 A. Yes, I did sign.

8 Q. All right. And I'm assuming that before you
9 signed the application, you just looked over it?

10 A. Yes.

11 Q. All right. And, you saw that on that question,
12 you did list, or your lawyer listed, MS-13?

13 A. Um, not that I can recall.

14 Q. Okay. And, you also testified that you answered
15 yes to committing crimes in this country?

16 A. Yes.

17 Q. Okay. And, after disclosing that, you were still
18 granted legal permanent residency status?

19 A. Nope.

20 Q. I thought you said you were --

21 A. Yes.

22 Q. Yes.

23 A. But it wasn't just because I sent application and
24 was granted.

25 Q. What other reason do you know of why you were

1 granted that?

2 A. I wasn't granted. I was pending and they put me
3 on removal proceeding.

4 Q. Okay. But, right now you have work
5 authorization?

6 A. I am a green card holder.

7 Q. You're a green card holder --

8 A. Yes.

9 Q. -- right?

10 So, at some point it was approved?

11 A. Yes, at some point.

12 Q. All right. And your testimony is that even with
13 those disclosures on an application, you did receive a
14 green card?

15 A. Yes.

16 Q. Okay. And, your testimony is that the government
17 did not assist you in any way in getting that, even with
18 those disclosures?

19 A. No.

20 MR. LEIVA: Court's indulgence.

21 BY MR. LEIVA:

22 Q. Just one -- a couple last questions, Mr. Garcia.
23 The conversations -- you had several
24 conversations regarding the murder of Gerson Martinez,
25 right?

1 A. Yes.

2 Q. Okay. And from your recollection, there's about
3 three people, right, that took credit for chopping his
4 head off, right? You can recall?

5 A. It was one, it was -- it was one or two. I can't
6 recall that right now.

7 Q. All right. So, it was Solitario?

8 A. No.

9 Q. All right. So, it was at least two people that
10 took credit for chopping his head off?

11 A. Yes.

12 MR. LEIVA: Your Honor, that's all the
13 questions I think I have.

14 Thank you for your patience, Mr. Garcia.

15 CROSS-EXAMINATION

16 BY MS. AUSTIN:

17 Q. Good morning, Mr. Garcia.

18 A. Good morning.

19 Q. My name is Amy Austin. I represent Alvin Gaitan
20 Benitez.

21 I have some questions for you. I'll start where
22 Mr. Leiva left off.

23 When were you granted your green card?

24 When did you get it?

25 A. I'm sorry. Repeat that question again.

1 Q. When did you get your green card?

2 A. Last year.

3 Q. Last year?

4 A. Yes.

5 Q. So, in 2014?

6 A. '15.

7 Q. '15, I'm sorry. When in 2015?

8 A. Around November.

9 Q. When did you apply for it?

10 A. 2007.

11 Q. 2007?

12 A. Yes, ma'am.

13 Q. So, you've been denied --

14 A. Twice.

15 Q. Excuse me?

16 A. Twice.

17 Q. Twice. Okay.

18 And so, as late as January 26, 2015, you were
19 still asking the U.S. Government to help you get your
20 S Visa, weren't you?

21 A. They were still trying to process the S Visa.

22 Q. Because you had been denied your green card?

23 A. I was -- I wasn't denied it, but I was on the
24 process of -- of going in front of the judge.

25 Q. You were trying to appeal that?

1 A. No. They send it to a judge, and the judge
2 decide.

3 Q. But, in January of 2015, you were in
4 communication with Agent Uribe of the FBI, and you were
5 asking him, has your S Visa been submitted. "Are you
6 doing this for me?" And he responded; is that correct?

7 MS. MARTINEZ: Objection, Your Honor,
8 compound question.

9 THE COURT: It is. Sustained.

10 BY MS. AUSTIN:

11 Q. Were you in contact with Agent Uribe in January
12 of 2015?

13 A. I was always in contact with Agent Uribe all the
14 time.

15 Q. Were you in contact with him regarding your
16 status here in the United States?

17 A. Sometimes, yes, I asked him.

18 Q. And, do you remember text messages between you
19 and Agent Uribe discussing your S Visa?

20 A. Sometimes.

21 Q. Do you remember texting him in January of 2015
22 regarding your S Visa?

23 A. I can't recall the date, but I always text him
24 and ask questions.

25 Q. Do you remember asking him in January 2015,

1 through a text, "Is everything okay? Just asking if S
2 Visa has been submitted"?

3 A. Like I said, I can't recall the date, but I
4 ask -- I ask questions about the S Visa.

5 Q. And do you remember him responding to you,
6 saying, "We are on it, this week, documentation has been
7 submitted"?

8 A. Yes.

9 Q. And then he also informed you --

10 MS. MARTINEZ: Objection, Your Honor.
11 That's hearsay.

12 MS. AUSTIN: I'll withdraw that.

13 THE COURT: Okay.

14 BY MS. AUSTIN:

15 Q. Did you then meet up with him to sign papers that
16 were required for that S Visa?

17 A. Yes.

18 Q. And is it your testimony that all the payments
19 you received from the FBI for your work performed and
20 for services -- excuse me -- for your work performed and
21 for expenses, those payments were made in cash to you?

22 A. Yes.

23 Q. No checks?

24 A. No checks.

25 Q. And, I understand that prior to Agent Born being

1 your handler, you had a different handler; is that
2 correct?

3 A. Yes.

4 Q. Who was that?

5 A. Um, the first one was David Solis.

6 Q. David Bliss?

7 A. Solis, S-o-l-i-s.

8 Q. Thank you.

9 That was your first handler. Who was your second
10 handler?

11 A. I can't remember his name.

12 Q. Okay. And then was Agent Born your third?

13 A. I can't recall what -- what number she was.

14 Q. When did you begin working with Agent Born?

15 A. I can't recall. I would say probably around
16 2007.

17 Q. And, was it when you began working with Agent
18 Born, around that time, the same time that you began
19 providing information to her regarding the different
20 MS-13 cliques in Virginia?

21 A. Um, you mean when I started? I started with
22 David Solis, giving information.

23 Q. On MS-13?

24 A. Yes.

25 Q. Okay. So, when you started being handled by

1 Agent Born, you had already been giving him -- you had
2 already been giving information on MS-13 in the Virginia
3 area?

4 A. Yes.

5 Q. Okay. And so, you just sort of picked up with
6 Agent Born --

7 A. Yes.

8 Q. -- is that correct?

9 A. Yes.

10 Q. You e-mailed her or texted her the same
11 information you had been texting your prior handlers?

12 A. Yes.

13 Q. And, you had been doing this for quite a while?

14 A. Yes.

15 Q. And, did she just then -- withdraw that.

16 At what point did you start concentrating on PVLS
17 clique and providing information on them?

18 A. When I learned what -- what they -- what they
19 trying to do in Virginia, and also when I learned about
20 the murders that they have committed.

21 Q. So, prior to learning about the murders, you
22 didn't provide information on PVLS?

23 A. Yes.

24 Q. Okay. So, around what time did you start
25 providing information on PVLS?

1 A. 2013.

2 Q. 2013. Okay.

3 Is that when you --

4 A. 2013, 2012. I don't recall the exact same date,
5 or the same --

6 Q. Year?

7 A. Year, yeah.

8 Q. Is it fair to say, sometime around August,
9 September, 2013, you started concentrating on PVLS?

10 A. No, it's not.

11 Q. Okay. When did you?

12 A. Like I say, I don't have the date. I can't
13 recall the date specifically.

14 Q. When did you start talking to members of PVLS on
15 the phone?

16 A. Could be 2012, 2013.

17 Q. And so, all during, perhaps, 2012, 2013, you were
18 talking to them on a cellphone; is that correct?

19 A. Cellphones, yes.

20 Q. Cellphones?

21 A. Yes.

22 Q. How many cellphones did you have, Mr. Garcia?

23 A. Um, I have two.

24 Q. Two?

25 A. Yes.

1 Q. And, at some point, the FBI provided you with the
2 cellphone that --

3 A. That's the second one.

4 Q. But you had a personal one?

5 A. I had a personal one.

6 Q. You didn't always have that second FBI --

7 A. No.

8 Q. -- issued phone?

9 Do you know when you got that phone?

10 A. No, I can't recall the date.

11 Q. At some point you met Demente; is that correct?

12 A. Yes.

13 Q. And, you -- did you meet him in person?

14 A. Yes.

15 Q. So, you saw him?

16 A. Yes.

17 Q. You could recognize him?

18 A. Yes.

19 Q. And, you talked with him on the phone?

20 A. Yes.

21 Q. And, you knew him to be the second word for the
22 PVLS clique?

23 A. I knew at that time he was the first word.

24 Q. At that time he was the first word?

25 A. Yes.

1 Q. Did you know Payaso at that time?

2 A. Yes.

3 Q. Who -- what position did he have in the PVLS
4 clique?

5 A. He was the one, pretty much the shot caller, from
6 jail to outside.

7 Q. So, you wouldn't consider him the first word?

8 A. Also would consider the first word, too.

9 Q. So, he and Demente shared that position of first
10 word?

11 A. Whatever they share is within the clique, however
12 they work it out --

13 Q. I'm asking you --

14 A. Yes.

15 Q. -- Mr. Garcia. You seem to have a lot of
16 information about these PVLS members.

17 A. Yes.

18 Q. What did you perceive Payaso's -- Payaso's
19 position to be?

20 A. He was the first word, as well, from in jail.

21 Q. From jail?

22 A. Yes.

23 Q. He conducted business over a cellphone from jail?

24 A. Yes.

25 Q. And, you talked to him several times while he was

1 in jail?

2 A. Yes.

3 Q. And, you also knew Demente, as the first word or
4 second word of PVLS, you knew him to deal in narcotics;
5 isn't that correct?

6 A. Yes.

7 Q. And, what drugs did you know him to deal in?

8 A. Um, the only thing I can recall talk to him, he
9 was dealing with cocaine.

10 Q. Cocaine?

11 Did you also know him to deal in methamphetamine?

12 A. No, not that I can remember.

13 Q. Do you remember telling your agent -- or your
14 handler, Agent Born, that Demente made a trip to LA to
15 buy a pound of crystal meth for \$6,000?

16 A. Yeah, I remember that.

17 Q. Okay. So, you knew Demente to deal in cocaine as
18 well as methamphetamine?

19 A. Um, is that the same, crystal meth? I don't know
20 if that's the same.

21 Q. Crystal meth, yes. I'm sorry.

22 A. I don't know if it's the same --

23 Q. Well, let me rephrase that, then.

24 You knew Demente to deal in cocaine as well as
25 crystal meth?

1 A. Yes.

2 Q. Okay. And crystal meth is an illegal drug,
3 correct?

4 A. Yes.

5 Q. Okay. And you knew that he had gone to LA to buy
6 \$6,000 worth of --

7 A. Yes.

8 Q. And you knew that he drove out there to get it?

9 A. Yes.

10 Q. And he drove back to Virginia with it?

11 A. Yes.

12 Q. And he sold it in Virginia?

13 A. Yes.

14 Q. And when you found it out, you told your handler
15 about it, correct?

16 A. Yes.

17 Q. Because you felt that was important?

18 A. Yes.

19 Q. And, at some point, Demente was arrested,
20 correct?

21 A. Yes.

22 Q. And, do you remember around what time that was --
23 I'm not going to hold you to an exact date, but, if you
24 put --

25 A. No, I don't remember the exact date, but I

1 remember that he was --

2 Q. Was it around the Peligroso incident?

3 A. Yes.

4 Q. Okay. So, October 2013 -- October 1st, 2013,
5 we've heard through testimony, is that incident,
6 correct?

7 A. Okay. Like I said --

8 Q. If I -- that's when he was arrested, correct?

9 A. Okay.

10 Q. No, not "okay." Do you know that Demente was
11 arrested --

12 A. I know Demente was arrested, but I don't know the
13 date specifically.

14 Q. At the Peligroso incident?

15 A. On the Peligroso incident, yes.

16 Q. That's what you know?

17 A. Yes. I know he was --

18 Q. Okay.

19 A. -- arrested for Peligroso incident.

20 Q. And, sometime after that you were asked by your
21 handler, Agent Born, to provide a roster of the members
22 of the different cliques that you knew of?

23 A. Yes.

24 Q. And, you provided that information to her?

25 A. Yes.

1 Q. And, you provided to her October 30th, 2013?

2 A. Like I said, I don't recall the dates, but, I
3 remember I did provide whatever she asked.

4 Q. Was it fairly -- within a short period of time
5 after Demente was arrested?

6 A. Like I say, I can't recall the date.

7 Q. Now, did you text that information to her or
8 e-mail it to her?

9 A. I just wrote all the time.

10 Q. You wrote out the names of those clique
11 members --

12 A. Names, cliques, yes.

13 Q. Yes. And one of the cliques was Park View?

14 A. Yes.

15 Q. PVLS?

16 A. Yes.

17 Q. And isn't it true on that day, that when you
18 listed the members of the PVLS clique, you did not
19 mention Pesadilla, or Lil Tuner?

20 A. Not that I remember.

21 Q. You don't remember listing him?

22 A. No, I don't remember.

23 Q. Now, in addition to the phone calls that you had
24 with Demente -- and it's been discussed already -- but
25 you had phone calls with Big Poison in El Salvador,

1 correct?

2 A. Yes.

3 Q. And, you asked him at some point whether he
4 approved the hit or the green light on Little Guasón,
5 correct?

6 A. Yes.

7 Q. And he told you no, he did not --

8 A. Yes.

9 Q. -- correct?

10 A. Yes.

11 Q. I'm sorry. I spoke over you. And you also asked
12 Payaso, who is in jail, if he had approved the hit or
13 the green light on Little Guasón?

14 A. Yes.

15 Q. And, you spoke to him on the telephone about
16 this --

17 A. Yes.

18 Q. -- correct?

19 And, he said he did not approve it, correct?

20 A. I don't remember what he says, to tell you the
21 truth.

22 Q. You asked him specifically, didn't you,
23 Mr. Garcia, in an effort to glean information about
24 this --

25 A. Like I say, I ask many questions, some questions,

1 probably, like listen the conversation, I will recall
2 that.

3 Q. Did you review the transcripts?

4 A. I did review the transcripts.

5 Q. Do you remember that conversation?

6 A. I don't remember that conversation with Payaso.

7 Q. I'll come back to that.

8 Now, let's turn to Mr. Gaitan Benitez. You
9 testified that you knew him as Pesadilla; is that
10 correct?

11 A. Yes.

12 Q. At some point, you stated, I believe on direct,
13 you had a conversation with someone you believed was
14 Pesadilla; isn't that correct?

15 A. Yes, I spoke to Pesadilla.

16 Q. On the telephone?

17 A. Yes.

18 Q. Not in person?

19 A. Not in person.

20 Q. And do you remember the first time you spoke to
21 this person who identified himself as Pesadilla?

22 A. I remember it was the first time I talk to him,
23 but I don't remember the date.

24 Q. But at that time, you had never meet him, had
25 you?

1 A. No.

2 Q. And, were you reporting your conversations with
3 Lil Pesadilla, Pesadilla, Lil Tuner, to Agent Born?

4 A. Yes.

5 Q. And, when you were talking to Pesadilla in 2013,
6 into 2014, how were you known to members of the PVLS
7 clique?

8 A. What do you mean? Know them all?

9 Q. How were you known to them? Who were you?

10 A. I was a member of SLS clique.

11 Q. A member?

12 A. Yes.

13 Q. You didn't have a ranking?

14 A. I was at that time the first -- the first word of
15 Silvas.

16 Q. You were first word of Silvas, like known as --
17 what was your nickname?

18 A. Junior.

19 Q. And, you recall in those conversations that you
20 had with Pesadilla, that in -- sometime in 2014, he told
21 you that he stabbed Lagrima three times during Lagrima's
22 murder. Do you recall that conversation?

23 A. I don't recall that conversation.

24 Q. Do you recall sending information to your
25 handler, Agent Born, about a conversation you had with

1 Pesadilla in February of 2014?

2 A. I send -- I send information all the time.

3 Q. Right. You sent it via text; is that correct?

4 A. Yes. I also had a phone that was, recorded the
5 conversation as well.

6 Q. Okay. And -- and so, they were recorded, and you
7 also sent that information to your handler?

8 A. Yes.

9 Q. And, so if your handler had written down that you
10 told her that Pesadilla said he stabbed Lagrima three
11 times during Lagrima's murder, does that refresh your
12 recollection at all of you telling her that?

13 A. No, I can't recall that conversation.

14 Q. Are you saying you didn't have that conversation?

15 A. I said I cannot recall that conversation.

16 Q. Could it have happened?

17 A. Could it have happened? Yes.

18 Q. And in those conversations -- well, strike that.

19 Throughout your continued conversations with
20 members of the PVLS and working with the agents in this
21 case, you found out that Little Pesadilla, in fact, was
22 not involved in Lagrima's murder, didn't you?

23 A. Yes.

24 Q. In fact, he wasn't even present, was he?

25 A. No. He wasn't.

1 Q. Sometime in April of 2014, did you find out
2 certain members of the PVLS clique had left the State of
3 Virginia?

4 A. Yes, I believe so, yes.

5 Q. What did you find out about that?

6 A. That they had left to different states.

7 Q. And why?

8 A. Because they thought the police was looking for
9 them.

10 Q. I'm sorry?

11 A. They thought the police was looking for them.

12 Q. Looking for them for what?

13 A. Um, I can't -- I don't remember what they were
14 looking for them.

15 Q. For Little Guasón's murder?

16 A. Um, I can't recall that, if that was the reason
17 that they left.

18 MS. AUSTIN: If the witness could look at
19 Exhibit 16-A-1-1.

20 BY MS. AUSTIN:

21 Q. If you can look at page one. If you could review
22 page one, please, Mr. Garcia.

23 Have you reviewed page one?

24 A. I am.

25 Q. Are you having a conversation with a member of

1 PVLS in that transcript?

2 MS. MARTINEZ: Objection, Your Honor. He's
3 still reading. He said, "Yes, I am," and he's still
4 looking down and reading.

5 THE WITNESS: Okay.

6 MS. AUSTIN: Thank you.

7 BY MS. AUSTIN:

8 Q. Have you reviewed page one?

9 A. Yes.

10 Q. Does that refresh your recollection of the
11 conversation you had?

12 A. Yes.

13 Q. And the conversation was, certain members of PVLS
14 had left the State of Virginia --

15 A. Yes.

16 Q. -- is that correct? I'm sorry?

17 A. Yes.

18 Q. Yes?

19 And Pesadilla did not go; is that correct?

20 A. Yes.

21 Q. In fact, he was going to get in trouble for not
22 going; is that correct?

23 A. Yes.

24 Q. And that was after Lil Guasón's murder; is that
25 correct?

1 A. I don't have the exact same dates of Lil Guasón's
2 murder.

3 Q. Well, the conversation you just looked at
4 occurred on May 10th, 2014?

5 A. Yes.

6 Q. Lil Guasón had been killed prior to that?

7 A. Say that again.

8 Q. Lil Guasón had been killed prior to that date;
9 isn't that correct?

10 A. Like I said, I don't -- I don't recall the
11 date -- the day of Lil Guasón murder. I don't have it
12 with me.

13 Q. Mr. Garcia, I understand you can't recall certain
14 dates --

15 A. Yes.

16 Q. -- but we're talking about May 2014.

17 A. Yes.

18 Q. You went for hours yesterday on the stand talking
19 about --

20 A. Yes.

21 Q. -- certain events that happened in 2014.

22 A. Yes.

23 Q. Was Lil Guasón murdered by May 2014?

24 A. I --

25 Q. What happened in May 2014, that you testified to

1 extensively on direct?

2 THE COURT: Would you like to ask --

3 MS. MARTINEZ: Objection, Your Honor.

4 THE COURT: You want to ask one of the
5 questions you asked?

6 MS. AUSTIN: Yes.

7 THE COURT: Ask him one question at a time,
8 if you would.

9 BY MS. AUSTIN:

10 Q. Do you remember your testimony on direct?

11 A. Yes, I do remember.

12 Q. Okay. Do you remember the question about going
13 to Holmes Run Park?

14 A. Yes.

15 Q. Do you know when that was?

16 A. Yes. It was around the summer of 2014.

17 Q. May, June 2014?

18 A. It could be May, June, but I could not give you a
19 specific date if you ask me that.

20 Q. Okay. I'm not asking for specific dates,
21 Mr. Garcia. I'm just asking for answers to the
22 question.

23 A. Okay.

24 MS. MARTINEZ: Objection, Your Honor. She's
25 badgering the witness at this point. He's doing his

1 best to answer these questions, and her tone of voice
2 and her, "I'm just asking for answers," is
3 inappropriate.

4 THE COURT: The jury can see what you're
5 doing. One question at a time, please.

6 BY MS. AUSTIN:

7 Q. May, June, you were at Holmes Run Park; is that
8 correct?

9 A. Yes.

10 Q. So, do you think prior to May, Lil Guasón had
11 been murdered?

12 A. Yes.

13 Q. Thank you.

14 Now, you say you have to earn the MS tattoo; is
15 that correct?

16 A. Yes.

17 Q. How do you earn that?

18 A. MS tattoo, by killing someone.

19 Q. Get drunk one night and get MS tattooed across
20 your forehead, without having done anything to earn it,
21 is there going to be some trouble?

22 A. Yes.

23 MS. AUSTIN: Thank you. I have no further
24 questions.

25 THE COURT: You may proceed.

1 MR. SALVATO: Thank you.

2 CROSS-EXAMINATION

3 BY MR. SALVATO:

4 Q. Good morning, Mr. Garcia.

5 A. Good morning.

6 Q. My name is Frank Salvato. I represent Christian
7 Lemus Cerna. I want to ask you some questions about --
8 in general, and then also about Gerson, Mr. Martinez,
9 okay?

10 A. Okay.

11 Q. All right. Sir, I think you testified from
12 Mr. Leiva's questions that you filed an application for
13 a green card; is that correct?

14 A. Yes.

15 Q. All right. And on that green card application
16 you represented that you were a member of MS-13; is that
17 right?

18 A. Yes.

19 Q. And you also put on that green card application
20 that you had committed certain crimes; is that correct?

21 A. Yes.

22 Q. And, that you had a criminal record; is that
23 correct?

24 A. Yes.

25 Q. All right. And, you were successful in getting

1 that green card; is that right?

2 A. Yes.

3 Q. And you are telling us and the ladies and
4 gentlemen of the jury that the government had no
5 assistance in getting you that green card?

6 A. My understanding, they sent a letter, but it was
7 sent back to them.

8 Q. All right. So, a letter was sent, but sent
9 back --

10 A. Yes.

11 Q. -- is that right? All right.

12 So the government had no role in you getting a
13 green card, despite telling our government you're in
14 MS-13 and you have a criminal record.

15 A. Yes.

16 Q. Is that what you're telling us?

17 A. Yes. But I also had show a letter to the judge
18 when I was in front of the judge.

19 Q. All right. I thought you said to Mr. Leiva that
20 the government did not assist you in getting that green
21 card.

22 A. Yes. They personally didn't -- they send it, but
23 it was not to them. I showed them -- I -- well, you go
24 to trial, trial means, they going to go -- you going to
25 go in details with them.

1 Q. So, when you said the government didn't assist
2 you, you meant to say that the letter didn't get
3 delivered?

4 A. Yes.

5 Q. But, the letter did get delivered, true?

6 A. It get delivered --

7 Q. By you?

8 A. -- by me. Yes.

9 Q. So, the letter did get delivered, true?

10 A. Yes.

11 Q. So, I'm going to ask you again. The government
12 did assist you in staying in this country and getting a
13 green card, true?

14 A. By the letter, that was provide to the judge.
15 Like I said, I was on trial. I cannot go in details on
16 the trial. It's a trial. You present the proof and
17 it's a trial.

18 Q. But part of that proof was the letter from the
19 United States, correct?

20 A. Yes.

21 Q. And, that was an important part of the trial,
22 correct?

23 A. Yes.

24 Q. And you didn't leave the letter at home,
25 undeliverable. You brought it to the trial?

1 A. I have a copy of the letter.

2 Q. You brought the letter?

3 A. Yes.

4 Q. So, when you told Mr. Leiva that the government
5 didn't assist you in getting that green card, despite
6 what you represented on the application --

7 A. Yes.

8 Q. -- that was a lie, true?

9 A. He asked me a specific question was, through
10 them. It was sent, but they didn't -- they just didn't
11 receive it through the government. They receive it
12 through me, which is the difference.

13 Q. That's the difference?

14 A. Yes. I would lie to you if I say they did
15 receive the letter through the government.

16 Q. Let me ask you a couple questions about Demente.
17 Do you know who Demente is?

18 A. Yes.

19 Q. And, how long did you know Demente?

20 A. Um, I knew him, probably, part of 2013.

21 Q. Until he got locked up?

22 A. Yes.

23 Q. And, sir, isn't it true, Mr. Garcia, that
24 Demente, all he did was sell marijuana?

25 A. I don't know. I cannot answer that question. I

1 don't know what exactly he did. I wasn't with them --
2 with him all the time.

3 Q. Well, you told the agents that he was selling
4 cocaine?

5 A. Yes. That's what -- when we had conversation,
6 that's what he said.

7 Q. So Demente told you he was selling cocaine?

8 A. They were buying cocaine.

9 Q. Buying cocaine?

10 A. Buying cocaine, crystal meth.

11 Q. What kind of amounts of cocaine did Demente tell
12 you about?

13 A. He just say cocaine. He said that he was going
14 to pay like 6,000. The price sometimes they --
15 sometimes when we talk, it was -- it was a price, it was
16 they sell it for this price, or the prices were kind of
17 different.

18 Q. How many times did Demente say that he purchased
19 cocaine?

20 A. Um, I can't recall how many times that he told
21 me.

22 Q. But it was up to \$6,000 worth of cocaine?

23 A. Yes.

24 Q. And, Demente also told you that he was involved
25 in crystal meth?

1 A. Yes.

2 Q. And, how much crystal meth was Demente involved
3 in?

4 A. I don't know.

5 Q. I think you just told Ms. Austin that you did
6 know --

7 A. Yeah, he was buying. But the amounts, for 6,000,
8 I don't know how much, how much amount you're going to
9 get.

10 Q. So, \$6,000 for the cocaine, \$6,000 for crystal
11 meth, that's a fair amount of drugs.

12 A. Yes, but I'm not in the drug business, so, I
13 don't know -- I don't do drugs. I cannot tell you
14 what's the amount.

15 Q. Well, you showed up to Holmes Run Park with a
16 marijuana joint, right?

17 A. Yes.

18 Q. And, you smoked that marijuana joint?

19 A. No.

20 Q. So, it just ended up in your pocket?

21 A. What do you mean, it ended up in my pocket?

22 Q. How did the marijuana cigarette end up in your
23 pocket?

24 A. I -- I purchased it.

25 Q. Okay. But you're not involved in drugs?

1 A. No.

2 Q. Okay. Who did you purchase the marijuana from
3 that day?

4 A. It was a guy on the street.

5 Q. A guy?

6 A. Yes.

7 Q. What's the guy's name?

8 A. I can't remember. I just met him that day.

9 Q. You just met him that day and what?

10 You just rolled up on him and said, "Can I have
11 some marijuana?"

12 A. No, no. I just asked around, that's all.

13 Q. Where did you ask around?

14 A. If anybody who sold marijuana.

15 Q. Where? Where did you ask?

16 A. Oh, what do you mean? Where I ask?

17 Q. The neighborhood?

18 A. Yes.

19 Q. So, how did this happen?

20 You just walk out of your house and ask around?

21 A. Yes, pretty much.

22 Q. So, you walk out the front door of your house?

23 A. No, no, not my house. I went to places that
24 probably I know they might sell drugs.

25 Q. How would you know that they might sell drugs if

1 you're not involved in the drug business?

2 A. Just by rumors, probably, you can ask.

3 Q. Rumors from who?

4 A. On the street.

5 Q. Who told you on the street?

6 A. Remember, I was involved with these guys, and,
7 they always mention DC, DC. If you go to DC, probably I
8 would be able to -- they would probably sell me drugs,
9 because, probably, they would assume that I'm not -- I'm
10 not a cop.

11 Q. Where did you go in DC?

12 A. I can't recall where it was. I never been there.
13 I was just asking around.

14 Q. You've never been to DC?

15 A. Yes, I have been to DC.

16 Q. Where in DC did you go to purchase the marijuana?

17 A. Probably was in the south -- Southeast, or close
18 to it.

19 Q. So, you just roll into Southeast and just start
20 asking around?

21 A. Not start asking. You have to be smart. It's
22 not you're just going to ask and they're going to give
23 it to you.

24 Q. So, you, what, rolled into the Southeast with
25 some cash on you?

1 A. Nope. I just asked. I just asked a person.

2 Q. What person?

3 A. I didn't know that person. I just ask the
4 person. I don't know the name. I don't ask for names.

5 Q. Was it a person just on the street?

6 Was it a person inside a shop?

7 A. It was on the street. It was on the street.

8 Q. Just walking down the street?

9 A. Yes.

10 Q. And you rolled up to him and said, "Hey, man, can
11 I have a joint?"

12 A. No, I just ask him if he knew anybody that sells
13 weed.

14 Q. And what did he say?

15 A. Yes.

16 Q. And, then, he gave you the weed?

17 A. Yes.

18 Q. How much did you buy it for?

19 A. Twenty bucks.

20 Q. And, you can't tell the ladies and gentlemen of
21 the jury where in Southeast DC --

22 A. No.

23 Q. -- this was?

24 A. No.

25 Q. No street?

1 A. I wasn't paying attention to the street.

2 Q. Okay. How did you get there?

3 A. Driving.

4 Q. How did you get -- so you weren't paying
5 attention while you were driving. You just showed up
6 in --

7 A. I was paying attention, but, if you -- if you go
8 up the street, if you ask me what street is passing two
9 streets, I still won't remember which streets I passed.

10 Q. So you just rolled up, what, 395 or so, you head
11 into Southeast DC, and -- is that right?

12 A. Yes.

13 Q. And then you just come up to somebody on the
14 street and get the marijuana?

15 A. Yes.

16 Q. Okay.

17 THE COURT: Counsel, Counsel, we'll take the
18 morning recess.

19 MR. SALVATO: Thank you, Your Honor.

20 THE COURT: Fifteen minutes.

21 You all remain in place, please.

22 Fifteen-minute recess. Please don't discuss
23 the case. We will be back, hopefully about 15 minutes,
24 maybe a little bit more.

25 (Jury not present.)

1 THE COURT: Please remain in place.
2 You can step down, sir. You can step down.
3 (Witness stood aside.)

4 THE COURT: Good morning. Can you hear me
5 okay?

6 FAMILY MEMBERS: Yes.

7 THE COURT: I appreciate you coming to
8 court. This is a public trial, and having family
9 members in court is a good thing.

10 But I want you to know that because of the
11 nature of this trial, we're paying attention to everyone
12 in the courtroom.

13 Can you hear me okay?

14 FAMILY MEMBERS: Yes, sir.

15 THE COURT: I am concerned about whether or
16 not there has been some verbal, or nonverbal, looking at
17 this witness, or signs being made to this witness while
18 he was testifying.

19 So, what I want you to know is that while I
20 wear this robe, I have to control this courtroom, and
21 there can be no verbal or nonverbal at any witness here.

22 The marshals, who work for the court, their
23 job is to ensure the courtroom is secure and safe.
24 While it's a public place, if they alert me that you or
25 anyone is doing such a thing, then I will put you out.

1 Do you understand?

2 FAMILY MEMBERS: (Indicating.)

3 THE COURT: And you won't be able to come
4 back at all. Okay.

5 We want you to be present. I think it's a
6 good thing to have family members in court. But you
7 have to understand that where you are is a courtroom,
8 the most formal place in America, and so we want you to
9 conduct yourselves accordingly, to represent your family
10 well. Okay?

11 FAMILY MEMBER: Absolutely.

12 THE COURT: Okay.

13 FAMILY MEMBER: Thank you, Your Honor.

14 THE COURT: We're in recess, 15 minutes.

15 Thank you.

16 (Court recessed at 11:36 a.m. and reconvened
17 at 11:52 a.m.)

18 (Jury not present.)

19 MS. MARTINEZ: Your Honor, may we approach?

20 THE COURT: Yes.

21 (Thereupon, the following side-bar
22 conference was had under seal:)

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3 (Thereupon, the side-bar conference was
4 concluded.)

5 THE COURT: You can bring our jury back, and
6 bring the witness out, please.

7 (Jury present at 11:59 a.m.)

8 THE COURT: You may be seated.

9 (Witness resumed stand.)

10 THE COURT: Counsel, you may proceed.

11 CROSS-EXAMINATION (Continued)

12 BY MR. SALVATO:

13 Q. Mr. Garcia, you first indicated that you bought
14 the marijuana in your neighborhood.

15 A. I did not say my neighborhood.

16 Q. Then you said that you bought the marijuana in
17 Washington, DC.

18 A. Yes.

19 Q. But, you don't remember where; is that --

20 A. No. I mean, it's -- cannot give you an address
21 for it.

22 Q. But it would be fair to say, sir, that you can
23 remember in excruciating detail what other people meant
24 in all of these transcripts?

25 A. Yes.

1 Q. On Demente, sir, isn't it true that Demente
2 simply sold marijuana on two occasions and made about 60
3 bucks?

4 A. I don't know. I just know what I talk to him.

5 Q. So, he was telling you something much bigger --

6 A. Yes.

7 Q. -- than marijuana, true?

8 A. Yes.

9 Q. He told you \$6,000 for cocaine, \$6,000 for
10 crystal meth; is that right?

11 A. Yes.

12 Q. And, being a senior member of MS-13, it would be
13 fair to say that Demente may have been bragging a lot to
14 you, correct?

15 A. How do I know?

16 Q. That's the point, isn't it?

17 A. Yes.

18 Q. How do you know?

19 A. Yes.

20 Q. So, he could have been bragging to you to make
21 himself look bigger, true?

22 A. He could have, yes.

23 Q. And that's what happens sometimes in MS-13 --

24 A. Yes.

25 Q. -- correct?

1 A. Yes.

2 Q. Because, blowing up something from twice selling
3 marijuana for \$60 to \$6,000 of crystal meth from
4 California, that's a pretty big leap, true?

5 A. Yes.

6 Q. I want to ask you some questions about my client,
7 Christian Lemus Cerna, if I can. Okay?

8 A. Okay.

9 Q. When you met Mr. Cerna, how old were you?

10 A. I was probably 32, 33.

11 Q. And Mr. Cerna, at that time, was about 16, 17,
12 18, true?

13 A. I don't know them by name, to -- I need --

14 Q. My client, Christian.

15 A. Yes, I know him.

16 Q. Okay.

17 Could we call him Christian from now on?

18 A. Okay.

19 Q. Okay. So Christian was how old when you met him?

20 A. I never ask him. I never ask for his age, that I
21 can recall.

22 Q. Did you know he was in high school?

23 A. When I met him, he wasn't in high school at that
24 time, when I met him personally.

25 Q. Did you ever see him in possession of like a

1 school notebook?

2 A. Nope.

3 Q. You never saw him in possession of a notebook to
4 collect dues?

5 A. Nope.

6 Q. Did you ever see him in possession of a notebook
7 which had some very low level, like shapes and
8 containers and those types of things?

9 A. No.

10 Q. So, you can't tell this jury in any way, shape,
11 or form, how old Christian was when you first met him?

12 A. No.

13 Q. Fair to say, however, he was much younger than
14 you, true?

15 A. Yes.

16 Q. And fair to say that he trusted you?

17 A. Yes.

18 Q. And he looked up to you?

19 A. I don't know if he did.

20 Q. Well, you were a senior member of MS-13.

21 A. Yes.

22 Q. He was trying to gain your respect, true?

23 A. I don't know if he -- well, he was trying to gain
24 my respect.

25 Q. And younger members of MS-13 often try to gain

1 the respect of older members, true?

2 A. Yes. It's just, they give the respect.

3 Q. Because you want to give the respect to the older
4 members, correct?

5 A. Yes.

6 Q. And you were a clique leader in Silvas, correct?

7 A. Yes.

8 Q. And you were nominated even to be the East Coast
9 leader at some point?

10 A. I'm sorry?

11 Q. You were nominated to be the East Coast leader?

12 A. I was not nominated. I was asked for one of --

13 Q. You were asked.

14 A. -- one of the PVLS members.

15 Q. Who asked you?

16 A. Payaso.

17 Q. All right. And, your conversations with
18 Mr. Cerna, or Christian, you were trying to get him to
19 say things about Gerson Aguilar, correct?

20 A. I wasn't trying to get him to say things. I was
21 trying to find out what happened to him.

22 Q. You were trying to find out, from his point of
23 view, what happened --

24 A. Yes.

25 Q. -- true?

1 You were trying to get familiar with him?

2 A. Yes.

3 Q. Trying to know him a little bit?

4 A. Yes.

5 Q. Manipulate him a little bit?

6 A. I was asking the questions. I don't know if that
7 can call it manipulating. Because I didn't --
8 manipulating is to do something that he didn't want to
9 do.

10 Q. And the point of these conversations was to find
11 out what happened, right?

12 A. To find out what happened to -- and where were
13 the bodies.

14 Q. Part of the purpose was to find out what happened
15 the night that this individual was killed, Mr. Gerson.
16 We'll call him Gerson, okay?

17 A. Yes.

18 Q. That was the point of your conversation -- one of
19 the points of your conversation, was it true?

20 A. It always was a point to find out that they --

21 Q. I'm talking about Christian, not they, okay?

22 A. Yes.

23 Q. So I want to be real focused with you.

24 A. Okay.

25 Q. All right.

1 A. My point with Christian was always to find out
2 what happened, that they did, that --

3 Q. Okay. Let me -- let me ask.

4 A. Okay.

5 Q. I want to be real focused. You were trying to
6 find out what -- in part, what Christian did, if
7 anything, true?

8 A. Yes.

9 Q. Okay. And, you were trying to find out, real
10 focused, on whether Christian participated in Gerson,
11 true?

12 A. Yes.

13 Q. Sir, it's fair to say that Christian, in speaking
14 to you, told you he was present, correct?

15 A. Yes.

16 Q. And, he also told you he even had knowledge of
17 what happened, true?

18 A. Yes.

19 Q. To Gerson.

20 A. Yes.

21 Q. And, sir, he also told you, specifically, that he
22 did not participate in the death of Gerson.

23 A. I'm sorry. Say that again.

24 Q. Didn't Christian tell you that he did not
25 participate in the death of Gerson?

1 A. No, he -- he did not say that.

2 Q. Didn't he tell you that he never had the chance
3 to participate in the death of Gerson?

4 A. No, he did not say that.

5 Q. He never told you that?

6 A. No.

7 MR. SALVATO: Mr. Toliver, could I ask the
8 witness to be shown Exhibit 15-A-1.

9 This has already been admitted, Your Honor.

10 THE COURT: All right.

11 MR. SALVATO: And I'm going to ask to
12 publish specifically page 21.

13 BY MR. SALVATO:

14 Q. And I'm not going to ask -- you remember this
15 page, right?

16 Ms. Martinez ask you about this page?

17 A. Yes.

18 Q. All right.

19 MS. MARTINEZ: Objection, Your Honor. He
20 should be given a chance to review the page before he is
21 asked specific questions about it, just like he did
22 during direct.

23 MR. SALVATO: Well, he's a -- that's fine,
24 Your Honor.

25 THE COURT: He does need to have a chance to

1 read it if you don't mind, Mr. Salvato.

2 MR. SALVATO: I don't mind.

3 MS. MARTINEZ: Your Honor, on the screen
4 there is only part of the page. May he be allowed to
5 review the entire page?

6 MR. SALVATO: He can review --

7 THE COURT: Give him the notebook. Does he
8 have the notebook?

9 MR. SALVATO: He has the notebook. He can
10 review the entire page.

11 THE COURT: Read page 21 to yourself, sir.

12 MR. SALVATO: Take all the time you want.

13 BY MR. SALVATO:

14 Q. Okay. Have you looked at the entire page?

15 A. Yes.

16 Q. Do you need any more time to look at it?

17 A. No.

18 Q. And you've already looked at this page before,
19 correct?

20 A. Yes.

21 Q. Ms. Martinez had asked you about this page in
22 your pretrial preparation --

23 A. Yes.

24 Q. -- correct?

25 And she asked you about it the other day,

1 correct?

2 A. Yes.

3 Q. Okay. I want to draw your attention to the
4 portion of the page that I believe is up on the screen.
5 Can you look at the screen? Can you see the screen?

6 A. Yes.

7 Q. Okay. You see where -- and you are JR, right?

8 A. Yes.

9 Q. You see where it says, "JR, OV, mm"?

10 A. Yes.

11 Q. All right. Now, under that, Mr. Cerna is telling
12 you that he was anxious; is that correct?

13 A. Yes.

14 Q. And, he was anxious before that time, correct?

15 A. Yes.

16 Q. And, "eat him first," correct?

17 A. Yes.

18 Q. And, you testified two days ago, or a day ago,
19 that your next question to Christian, "But did you even
20 get a chance?" You testified two days ago that you were
21 asking him: Did you ever get the chance to kill him?
22 True?

23 A. No. I ask him if he -- if he ever get the chance
24 to do what he wanted to do first.

25 Q. Okay. So, did he ever get the chance -- I think

1 you testified, though, specifically --

2 A. Yes.

3 Q. -- I want to be real specific, that you testified
4 that question was: Did you ever get the chance to kill
5 him? To do what he wanted to do, correct?

6 A. Yes.

7 MS. MARTINEZ: Objection, Your Honor, asked
8 and answered.

9 MR. SALVATO: I've asked it. He haven't
10 answered it.

11 THE COURT: He has.

12 MS. MARTINEZ: He answered what he said on
13 direct.

14 THE COURT: He has, but I'll let you ask him
15 one more time.

16 BY MR. SALVATO:

17 Q. That's what you said on direct?

18 A. Yes.

19 MS. MARTINEZ: Objection, Your Honor.
20 That's completely unclear. He was vague about "that's
21 what you said" --

22 MR. SALVATO: Your Honor --

23 MS. MARTINEZ: -- "on direct."

24 MR. SALVATO: -- speaking objection.

25 THE COURT: I'll sustain the objection. If

1 you would ask a specific question, Mr. Salvato --

2 MR. SALVATO: I did. That's what I'm really
3 trying to --

4 THE COURT: I know. I'm asking you to do it
5 again, so everybody can hear what you're trying to ask.
6 Go ahead.

7 MR. SALVATO: I appreciate it.

8 BY MR. SALVATO:

9 Q. On direct testimony from Ms. Martinez, what you
10 told this jury is when you asked him, "But did you even
11 get a chance," you were asking him, did you ever get a
12 chance to do what you wanted to do, correct?

13 A. Yes.

14 Q. And, Mr. Cerna told you in the next sentence, he
15 said, "No, man." True?

16 A. Yes.

17 Q. And, he didn't say "yes" to that question, right?

18 A. Yes.

19 Q. He didn't say, "Yeah, I knocked him to the
20 ground," did he?

21 A. No.

22 Q. He didn't say, "Yeah, I used my toy on him,"
23 correct?

24 A. Yes.

25 Q. He didn't say, "Yeah, I stabbed him," true?

1 A. Yes.

2 Q. He didn't say, "Yeah, I cut his head off while he
3 was still alive," correct?

4 A. Repeat that question again.

5 Q. He didn't say, "Yeah, I cut his head off while he
6 was still alive."

7 As horrible as these questions are, okay, he
8 didn't say, "I cut his head off while he was still
9 alive," did he?

10 A. No.

11 Q. Okay. What he said was, "No, man. At least I
12 got to cut the son of a bitch's head off." Is that
13 right?

14 A. Yes.

15 Q. Okay. And, obviously, you weren't there, true?

16 A. Yes.

17 Q. And, only the people that were there would know
18 whether Gerson was dead before his head was cut off,
19 true?

20 A. Yes.

21 Q. And one of the people that was there who would
22 know that, that you had spoken to, is Duende, correct?

23 A. Yes.

24 Q. And, that person is Jose Del Cid. Do you know
25 his name?

1 A. I don't recall talking to Duende about a
2 specific -- about Little -- I mean --

3 Q. I appreciate --

4 A. -- Gerson.

5 Q. -- that answer, but my question is --

6 MS. MARTINEZ: Objection, Your Honor. He's
7 cutting off the answer.

8 MR. SALVATO: I asked -- it was
9 nonresponsive, Your Honor. I'll rephrase it.

10 THE COURT: Well, the way this has to work
11 is, you ask one question, one answer. Thank you.

12 BY MR. SALVATO:

13 Q. Do you know Duende's real name?

14 A. No, I don't know them by name.

15 Q. Now, sir, you testified before this jury under
16 penalty of perjury. Do you remember that?

17 A. Yes.

18 Q. You came in and took an oath?

19 A. Yes.

20 Q. And you told this jury that you had -- that,
21 "This wasn't me," that you wanted to turn your life
22 around, true?

23 A. Yes.

24 Q. And part of turning your life around, and this
25 wasn't you, you told the jury, no more lies, correct?

1 A. Yes.

2 Q. That you were going to come in and tell the
3 truth?

4 A. Yes.

5 Q. Sir, outside of what we've already spoken about,
6 have you been untruthful in any of your answers to the
7 government's questions?

8 A. No.

9 Q. Under penalty of perjury, have you answered every
10 one of questions from the government truthfully?

11 A. Yes.

12 Q. Sir, Mr. Garcia, is it true that in 2015, under
13 penalty of perjury, you filed a petition in Federal
14 Bankruptcy Court stating that you were unemployed, you
15 had no income, and you had no money?

16 A. Yes, that was true.

17 Q. In response to Ms. Martinez's questions, two days
18 ago, you said you were always employed, didn't you?

19 A. Yes.

20 Q. You would agree with me that there's a big
21 difference between filing bankruptcy, saying that you're
22 unemployed and have no money, versus telling this jury
23 that you've always been employed, true?

24 A. Yeah, it's true. If you were -- if you work two
25 or three days, if you work every week, you work. So,

1 I'm not lying saying that I didn't work.

2 Q. Now, Ms. Martinez asked you as a follow-up --

3 A. Yes.

4 Q. -- "Full time?" Do you remember her asking you
5 that?

6 A. Yes.

7 Q. Okay. And what was your response?

8 A. Yes.

9 Q. Okay. So, now you're telling us there's a big
10 difference between two or three days and full time,
11 correct?

12 A. Yes.

13 MR. SALVATO: Your Honor, can I grab an
14 exhibit sticker? I think we're at Cerna 4 for
15 identification.

16 MS. MARTINEZ: Your Honor, we request to see
17 a copy of the exhibit before it's --

18 THE COURT: Of course.

19 MR. SALVATO: I'm just going to have him
20 identify it, Your Honor, but I have a copy for the
21 government.

22 MS. MARTINEZ: Your Honor, we object to this
23 being admitted in evidence and ask to approach.

24 THE COURT: Okay. Come to sidebar.

25 (Thereupon, the following side-bar

1 conference was had:)

2 MS. MARTINEZ: Your Honor, the security --

3 THE COURT: Can I see it? What is it?

4 MS. MARTINEZ: Your Honor, I have a security
5 concern about this document, and I would ask, for the
6 reason I have a security concern, that the remainder of
7 what I have to say not be translated for the defendant.

8 THE COURT: Okay. You can step away, and
9 don't translate.

10 (Under seal side-bar)

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(Thereupon, the side-bar conference was concluded.)

THE COURT: You may proceed, Counsel.

MR. SALVATO: Thank you, Your Honor.

BY MR. SALVATO:

Q. Mr. Garcia, is it still your testimony that you were truthful when Ms. Martinez asked you whether you had always been employed full time, and you answered yes?

A. Yes.

Q. But you haven't always been employed full time, have you?

A. Um, not all the time.

Q. But, you answered her question untruthfully; is that right?

A. Yes.

1 Q. So, you lied about your employment situation,
2 true?

3 A. Yes.

4 Q. What else, if anything, have you lied about to
5 this jury?

6 A. Nothing else. I don't see that I lied, saying
7 two times two days is still a full time job.

8 Q. You just said that you lied?

9 A. You asked me a question, and the way you say it
10 is that I lie.

11 Q. And, you did lie, correct?

12 You lied about whether you were always employed
13 full time?

14 A. Let me ask you a question. If I have three days,
15 and I work 12 or 15 hours a day, isn't that would be
16 three days full time?

17 Q. I don't want you to talk to anything other than
18 my question, okay? I don't want to talk about your
19 kids, family or anything like that.

20 My question, very specifically, is if you told
21 this jury that you were always employed full time, that
22 was a lie, true?

23 A. Yes.

24 Q. What else, if anything, have you lied about?

25 A. Nothing else.

1 Q. So, that's the only lie that you've told to this
2 jury, was when you were confronted with proof that you
3 lied, true?

4 A. Yes.

5 Q. And, sir, isn't it a fact that you were paid
6 \$44,000 over about -- over the time period that you were
7 an informant or a confidential human source with the
8 FBI?

9 A. You mean ten years?

10 Q. Yeah.

11 A. Yes.

12 Q. And, you were always paid in cash?

13 A. Yes.

14 Q. And, you needed that money, correct?

15 A. Yes.

16 Q. You were desperate for that money?

17 A. No.

18 Q. Well, you and others in your family had run up a
19 lot of debt, true?

20 A. Yes.

21 Q. So, you really needed that money. You were
22 desperate for that money?

23 A. No.

24 Q. Sir, you and your family -- I'm just going to use
25 "family," I'm not going to use any names or anything

1 like that.

2 A. I don't feel comfortable talking about my family,
3 to tell you the truth.

4 Q. You had run up a lot of debt, true?

5 A. Yes.

6 Q. Capital One, correct?

7 A. Yes.

8 Q. Dress Barn, correct?

9 A. Yes.

10 Q. Ford Motor Company, correct?

11 A. Yes.

12 Q. GE --

13 MS. MARTINEZ: Objection, Your Honor,
14 cumulative. He's answered the question about debt.

15 THE COURT: Objection sustained.

16 BY MR. SALVATO:

17 Q. Did you have a timeshare, sir?

18 A. Yes.

19 Q. Sir, I think you said in your direct testimony
20 something along the lines of, you can't brag about
21 something you did not do. Do you remember that
22 testimony?

23 A. Yes.

24 Q. And the reason being, if you brag about something
25 you didn't do, the gang is going to figure it out, that

1 you didn't do it, right?

2 A. Yes.

3 Q. Sir, if you could take a look at Government's
4 Exhibit 18-A-1.

5 MR. SALVATO: And, Your Honor, I apologize,
6 but we're going to have to switch to the Elmo for this
7 because of the page numbers and how many -- how many
8 versions.

9 BY MR. SALVATO:

10 Q. Sir, can you look at Government's Exhibit 18-A-1,
11 which has already been admitted, page eight, eight on
12 the bottom, or 16, bigger numbers on the right.

13 On the top, it says, "In the garages there's a
14 shit load of stuff." Are we looking at the same piece
15 of paper?

16 A. What page? You haven't said what page.

17 Q. Page eight on the bottom, page 16 to the far
18 right. It's on the screen.

19 Do you have it?

20 A. Yes.

21 Q. Do you need a moment to look at it?

22 A. Yes.

23 Okay.

24 Q. You read the whole page?

25 A. Yes.

1 Q. Okay. If I could ask, at the bottom where it
2 says, "That dude," do you see that paragraph?

3 A. Yes.

4 Q. Okay. And on the screen it says -- and I believe
5 in front of you --

6 A. Uh-huh.

7 Q. -- you said, "That dude that's giving me
8 bullshit, he already pissed me off, dude." Who are you
9 speaking to in this transcript?

10 A. It was -- it was a guy, um --

11 Q. And I apologize. Maybe I asked that wrong.
12 You're talking to Christian --

13 A. Yes.

14 Q. -- as part of this conversation?

15 A. Yes.

16 Q. Okay. And, you said, "That dude that's giving me
17 bullshit, he already pissed me off, dude. The dude was
18 bullshitting Stone." Do you see that?

19 A. Yes.

20 Q. Okay. And that's you talking right?

21 A. Yes.

22 Q. And, you said, "So, we dropped in on him." Do
23 you see that?

24 A. Yes.

25 Q. Okay. And "dropping in on him" is a phrase where

1 you --

2 A. Yes.

3 Q. -- or MS-13 members attack somebody, you drop in
4 on them, correct?

5 A. I was -- I was talking of the clique, what --
6 what we were saying, and I was explaining about the
7 clique, what happened with this guy.

8 Q. I appreciate what you said there, but my answer
9 was very -- my question was very specific.

10 A. Okay.

11 Q. You're saying, "so we dropped in on him."
12 "Dropped in on him" is a phrase that you are going to
13 attack somebody, correct?

14 A. Yes.

15 Q. That you're going to rob them, true?

16 A. Yes.

17 Q. And it says, "we dropped in on him." And the
18 "we" included you, correct?

19 A. Yes.

20 Q. And when did this dropping in take place?

21 A. I wasn't part of it. Actually, I record -- I
22 record that situation with the phone.

23 Q. So, "we" doesn't include you?

24 A. It does, because I was on the phone, so it
25 includes me. I can explain it to you so you understand

1 better, why we use "we."

2 Q. I'll ask you a couple more questions.

3 And you said, "and the motherfucker was crying,
4 you know, 'the rings, the chains, leave me those, they
5 belong to my wife.'" Do you recall saying that?

6 A. Yes.

7 Q. And if you could take a look at the very next
8 page, page nine at the bottom, page 17 on the right-hand
9 corner. Do you need some time to read through that?

10 A. You want me to read the whole page?

11 Q. Read as much or as little as you want.

12 A. I need to know, so I can answer your question.

13 Q. Okay. You read the whole page.

14 A. Okay.

15 Okay.

16 Q. You read the whole page?

17 A. Yes.

18 Q. And on your first quote, where it says "JR," you
19 said, "We took his money and everything."

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. And, who -- who were you robbing here?

24 A. I wasn't robbing nobody.

25 Q. Who is -- who is the victim here?

1 A. I don't know that guy.

2 Q. "All right, cool, we told him, all right, 250, I
3 told him, you know." Do you see that?

4 A. Yes.

5 Q. Okay. It no longer says "we," does it?

6 A. No.

7 Q. It says, "I told him."

8 A. Yes.

9 Q. And, you're the one speaking, correct?

10 A. Yes.

11 Q. And you're telling this jury that you,
12 Mr. Garcia, was not involved in that robbery?

13 A. No, I wasn't.

14 Q. "I told him, you know, 'no for sure.'" Then it
15 says, "Stone told him, 'I'm going to cut your finger
16 off, you son of a bitch.'

17 "'No, no, no, said the motherfucker.'"

18 "'We're going to cut your finger off.'"

19 "'No, no, no.' And the son of a bitch would
20 start crying, you know."

21 And then you say, "Where I can leave the car
22 around here, dude?"

23 You --

24 A. Yes.

25 Q. -- threatened to cut the man's finger off,

1 correct?

2 A. I wasn't, because I wasn't there. I didn't have
3 him in front of me.

4 Q. But it says right there, sir, "I told him, you
5 know, 'no, for sure.'" You told him --

6 A. Yes.

7 Q. -- true?

8 A. No, I didn't --

9 Q. So you were there?

10 A. No, I wasn't there. I was there when they were
11 doing it on the phone. They called me, and I was just
12 listening to it, recording the whole conversation.

13 Q. And where were they?

14 A. I don't know where were they, when they called
15 me.

16 Q. You didn't say, "Guys, where are you?"

17 A. No. The -- my handler knew about what they
18 wanted to do.

19 Q. And you told your handler when, right away?

20 A. I told her way before it happens, and I told her
21 after it happens, and I told -- I told her when -- when
22 it happens.

23 Q. So, you knew this robbery was going to take
24 place?

25 A. I -- I was aware, so I let my handler know the

1 situation.

2 Q. Okay. So you told your handler --

3 A. Yes.

4 Q. -- who is the FBI --

5 A. Yes.

6 Q. -- that this robbery was going to take place?

7 A. Yes. It was going to take place at some point,
8 but I just didn't know when.

9 Q. And, you told the FBI who was going to be
10 involved in the robbery?

11 A. Yes.

12 Q. And you told the FBI who the victim of the
13 robbery was going to be?

14 A. I have an idea. That's what I told her.

15 Q. Okay. What was your idea?

16 A. What they told me, the --

17 Q. What did they tell you?

18 A. They tell you that they were planning to rob a
19 guy. They gave me the description, the best that they
20 could, that I asked, and that's the same information I
21 gave to my handler.

22 Q. Who was the guy?

23 A. I don't know the guy.

24 Q. Where did the guy live?

25 A. I don't know where he lives.

1 Q. So, Stone, who is lower than you in the gang --

2 A. Yes.

3 Q. -- is telling you that he plans to rob some
4 unknown guy?

5 A. He says that -- at that time, it was the second
6 word as well in Silvas, which was another gang member,
7 so, they -- they always were in the street.

8 Q. Okay. So, Stone was below you in the gang,
9 correct?

10 A. Yes.

11 Q. Right. And, he told you that there was going to
12 be a robbery?

13 A. Yes.

14 Q. And, you had an idea who was going to be robbed?

15 A. Yes.

16 Q. And, you knew that Stone -- apparently not you,
17 but Stone was going to be involved in the robbery?

18 A. Yes.

19 Q. Okay. And, you told the FBI?

20 A. Uh-huh.

21 Q. Is that right?

22 A. Yes.

23 Q. Okay. And, did the robbery get prevented?

24 A. No.

25 Q. Did anyone get arrested?

1 A. I believe so.

2 Q. For this robbery?

3 A. Yes.

4 Q. Who got arrested?

5 A. I believe Stone.

6 Q. What's Stone's name?

7 A. I don't know him by name.

8 Q. And did Stone get prosecuted?

9 A. Yes.

10 Q. Did you testify against Stone?

11 A. No.

12 Q. So, according to your testimony, you were
13 bragging about something that you did not participate in
14 it, true?

15 A. Yes.

16 Q. But you just told us, I think ten minutes ago,
17 that MS-13 members don't brag about things that they
18 didn't participate in.

19 A. Yes.

20 Q. So, what you told us ten minutes ago is not true?

21 A. It is true. It is true.

22 MR. SALVATO: Court's indulgence, Your
23 Honor.

24 BY MR. SALVATO:

25 Q. Look at page -- I believe it's in that same big

1 exhibit, page 30, the big one on the right, page 30.
2 Can you read through that entire page? Take your time.

3 A. Okay.

4 Q. Okay. And, in about two-thirds down the page
5 where you speak, it says, "No, we'll also put..." Do
6 you see that?

7 A. Which one?

8 Q. About two-thirds down the page where it says:
9 "JR: No, we'll also put..." Do you see that sentence?

10 A. No.

11 Q. On the screen. See it, right in the middle of
12 the screen?

13 A. Okay. Yes.

14 Q. Okay. So, here you're saying, "No, we'll also
15 put that motherfucker next to those two chickens, man.
16 We'll put him over there next to those pair of dudes,
17 you'll see." Okay? You're talking about having someone
18 else killed, correct?

19 A. Yes.

20 Q. All right. And you're -- you didn't kill
21 anybody --

22 A. No.

23 Q. -- right?

24 But you're bragging about something that you
25 didn't do, and that you weren't going to do, correct?

1 A. Yes.

2 Q. And you're talking about killing somebody, right?

3 A. Yes.

4 Q. All right. And, I thought you just told us
5 15 minutes ago that you don't brag about something you
6 didn't do, right?

7 A. Yes, but that's a different situation. The point
8 here was me trying to find the bodies of Lagrima and the
9 other person.

10 Q. I understand. But you're bragging about
11 something you didn't do.

12 A. Yes, I was bragging, of course.

13 Q. And, bragging is -- another word for bragging in
14 this situation is lying, correct?

15 A. Yes.

16 Q. Okay. So you're trying to lie and manipulate
17 Christian, correct?

18 A. No.

19 Q. Well, you're lying to him, right?

20 A. Yes.

21 Q. So, you're trying to manipulate him, correct?

22 A. No. Because that's -- I'm not making him do
23 anything that he don't want to, or putting word in his
24 mouth.

25 Q. If you could look at page -- big page 54 of that

1 same long exhibit. Do you have page 54 there?

2 A. Yes.

3 Q. Can you read that for me?

4 A. Yes. Okay.

5 Q. And, this is talking, in essence, about a
6 confrontation, right?

7 A. Yes.

8 Q. And, when you say -- do you see about a third of
9 the way down the page, when it says, "And the shot
10 caller from South Side shows up."

11 A. Yes.

12 Q. Okay. So, this is a situation where a rival gang
13 member showed up and confronted you, correct?

14 A. Confront me and the other guys that were with me.

15 Q. Who were the other guys that were there?

16 A. Two other members from Silvas.

17 Q. Who?

18 A. Was Pelucho and Corky.

19 Q. And when did this happen?

20 A. Back in 2003 -- 2003, I believe.

21 Q. Okay. So you're talking about something with my
22 client, Christian, that happened back in 2003?

23 A. Yes.

24 Q. So this actually happened, correct?

25 A. Yes.

1 Q. And then it says later on, the second-to-the-last
2 time that you speak, the long paragraph, you say at the
3 second sentence of that, "So, he gets them on the second
4 floor, fool, bam, motherfucker, they come falling down."
5 That's what you said, right?

6 A. Yes.

7 Q. "And the four of us took off running"; is that
8 right?

9 A. Yes.

10 Q. And, "All the security guards were coming down";
11 is that right?

12 A. Yes.

13 Q. All right. And that all happened, right?

14 A. It did.

15 Q. Okay. Did you disclose any of that information
16 on your application for green card?

17 A. Yes.

18 Q. You -- you noted that incident?

19 A. Yes.

20 Q. You said that you were confronted by some South
21 Side guys, big commotion, and the four of you took off
22 running --

23 A. Yes.

24 Q. -- and the security guards were all running after
25 you?

1 MS. MARTINEZ: Objection, compound question.

2 THE WITNESS: I submit all my disposition
3 court order to Immigration --

4 THE COURT: Just a second. Just a second.

5 MR. SALVATO: I'll rephrase it, Your Honor.

6 THE COURT: Sustained.

7 BY MR. SALVATO:

8 Q. You told the United States Government, Homeland
9 Security --

10 A. Yes.

11 Q. -- that -- about this fucking commotion -- about
12 this commotion?

13 A. Say that again.

14 Q. On your application --

15 A. Yes.

16 Q. -- for the green card, did you tell the United
17 States Government about this incident?

18 A. Yes.

19 Q. And, you told them about, that it was a
20 commotion, and that you ran from the police?

21 MS. MARTINEZ: Objection, compound question,
22 Your Honor.

23 BY MR. SALVATO:

24 Q. Did you tell them about --

25 MS. MARTINEZ: Objection, compound question.

1 THE COURT: Sustained.

2 BY MR. SALVATO:

3 Q. Did you tell them about the commotion?

4 A. I told them how the court has my financial
5 disposition order. I tell them how it was, how it
6 happened.

7 Q. Were you arrested?

8 A. Yes.

9 Q. What were you charged with?

10 A. Disorderly conduct.

11 Q. Can you take a look at the next page, please,
12 sir?

13 A. Which page, 55?

14 Q. Yes, the very next page. If you can read through
15 that.

16 A. Okay.

17 Q. Right in the middle of the page -- are you still
18 talking about this same incident, by the way?

19 A. Yes.

20 Q. All right. And right in the middle of the page
21 you say, "And the fools were already there for murder."
22 Do you see that?

23 A. Yes.

24 Q. Okay. Who are the fools?

25 A. The -- the guys from South Side.

1 Q. They were there for murder when? What do you
2 mean?

3 A. I don't know. That's what they told us. I don't
4 know the details.

5 Q. Who told you that?

6 A. In the court.

7 Q. At what court?

8 A. Arlington.

9 Q. So, Arlington court told you that the South Side
10 guys were there for murder?

11 A. No, not the court. Well, we have a lawyer, a
12 public defender, I believe, and he's the one who told
13 us.

14 Q. That the --

15 A. Whether it --

16 Q. -- South Side guys --

17 A. Whether it was true or not, that's what I was
18 told.

19 Q. By the lawyer?

20 A. Yes.

21 Q. And then you say, "So the judge tells us no. He
22 says, 'You can get out on probation'"; is that right?

23 A. Yes.

24 Q. And, you got probation for that?

25 A. Yes. I believe I have 90, or -- 90 days. I

1 can't recall that.

2 Q. And, somebody else got five years probation?

3 A. Yes.

4 Q. And somebody else got sent down, meaning sent to
5 prison --

6 A. Yes.

7 Q. -- for that? Okay.

8 But what you're telling us is that you got a
9 90-day probationary period for this commotion?

10 A. Yes.

11 Q. And others got five years or sent to prison?

12 A. Yes.

13 MR. SALVATO: Court's indulgence, Your
14 Honor.

15 BY MR. SALVATO:

16 Q. Take a look at page 69. You want to read that
17 page?

18 A. Okay.

19 Okay.

20 Q. All right. And in the middle where it says --
21 where you're talking, you're JR, saying, "I went blank,
22 dude." Do you see that?

23 A. Yes.

24 Q. And, you said, "I hit him, right, like this,
25 look, like this." So, you hit him?

1 A. No. I hit him with this look. I hit him with
2 the look.

3 Q. You hit him with the look?

4 A. Like I was mad at him.

5 Q. So, you didn't actually hit him?

6 A. No.

7 Q. You hit him with your look?

8 A. Yes.

9 Q. And then after this look, dude from Coronados
10 grabbed you, right?

11 A. Yes.

12 Q. And then you went for a knife, correct?

13 A. No.

14 Q. It says, "I went like this to the knife" -- "to
15 the knife (sic), you know." Do you see that sentence?

16 A. Yes.

17 Q. "I went like this to the knife, you know." So
18 you went for a knife?

19 A. No. I wasn't -- probably it means that I was
20 looking at his knife. He had a knife. I didn't go to
21 no -- for no knife.

22 Q. He had a knife.

23 A. Yes.

24 Q. It doesn't say that in there, does it?
25 Does it say he had a knife?

1 A. Well, if you read the whole conversation, you
2 will see that he had a knife at some point.

3 Q. Okay. And then you said in the last line,
4 "You're going to take a beating, dude"; is that right?

5 A. Yes.

6 Q. Okay. When did that happen? When did this
7 incident happen?

8 A. It happened in the general meeting.

9 Q. When?

10 A. I can't recall when, but it was in a general
11 meeting.

12 Q. What year?

13 A. It was around 2013, 2014.

14 Q. Okay. And did you tell your handlers, the FBI,
15 that --

16 A. Yes. I have a recording device. There were
17 cameras in the restroom. So they knew everything.

18 Q. Was anybody arrested for that?

19 A. Um, I don't remember.

20 Q. You don't know whether the guy Coronados who
21 pulled a knife on you was arrested?

22 A. No, I don't remember.

23 Q. Did you ever testify against this guy?

24 A. Nope.

25 Q. So, as far as you know, the FBI, or your handlers

1 let this guy with a knife from Coronados just back into
2 the community?

3 A. I don't know. I don't know if he was arrested.
4 I know the police got there. They got many people. I
5 don't know if he was one of them.

6 Q. Okay. What's his name?

7 A. He was Lil Payaso from Guanacos.

8 MR. SALVATO: Just a couple more questions,
9 Your Honor.

10 BY MR. SALVATO:

11 Q. Sir, it's fair to say that you want to stay in
12 this country, correct?

13 A. Yes.

14 Q. And, being an informant and returning to El
15 Salvador, you don't want to do that, correct?

16 A. No.

17 Q. All right. And you want to help the government
18 in whatever way possible in order to stay in the
19 country, true?

20 A. Um, I want to help -- I want to do what's right.
21 And if that apply to helping the government, that's
22 what -- that's what I'm going to do.

23 Q. Okay. So, you're trying to help the government
24 to stay in this country, correct?

25 A. No.

1 Q. You're hoping the government will help you stay
2 in this country, correct?

3 A. That is up to them, not to me.

4 Q. That's not my question.

5 A. Okay.

6 Q. You are hoping that the government will help you,
7 because of your testimony and other things, to stay in
8 the country?

9 A. You're asking me if I'm hoping, but, I cannot
10 hope. I cannot decide -- like I respond, it's up to
11 them.

12 Q. But, you're hoping that they help you. That's
13 the reason why you're here today, right?

14 A. No.

15 MR. SALVATO: That's all the questions I
16 have, Your Honor.

17 I think we're at our lunch break.

18 THE COURT: All right.

19 You can step down, sir.

20 We'll let the jury go out first. Remain in
21 place, please.

22 (Jury not present.)

23 THE COURT: You can step down, sir.

24 (Witness stood aside.)

25 THE COURT: You may be seated.

1 I wanted to make one other observation to
2 family members who might be present in the courtroom,
3 and that is, because there are so many people involved
4 in the case, the attorneys, particularly the government
5 attorneys and law enforcement are not to be approached;
6 and no contact with them.

7 If you get on the elevator and you see them
8 there, get off. And likewise, if they see you on the
9 elevator, they're going to get off.

10 And we want everything to go smoothly. And
11 you're welcome to be here, but you've got to respect my
12 rules. Thank you.

13 We're in recess until 2:00 o'clock. Thank
14 you.

15 (Court recessed at 1:01 p.m. and reconvened
16 at 2:02 p.m.)

17 THE COURT: You can bring our jury out,
18 Mr. Toliver. Thank you.

19 We need the witness back.

20 (Jury present at 2:03 p.m.)

21 THE COURT: You may be seated.

22 All right, Counsel. You may proceed.

23 (Witness resumed stand.)
24
25

CROSS-EXAMINATION

BY MS. RALLS:

Q. Good afternoon. My name is Meredith Ralls and I represent Mr. Omar Dejesus Castillo.

Mr. Garcia, you met Mr. Castillo at the end of 2013; is that correct?

A. Yes.

Q. I want to ask you some questions about your contacts with the FBI. Have you ever talked to anybody named Sandra D'Sa?

A. I can't recall that name.

Q. Have you talked to anybody that you thought was a translator for the FBI?

A. No.

Q. And, you met with the prosecutors in this case to prepare for your testimony today; is that correct?

A. Yes.

Q. Did you also meet with agents from the FBI to prepare for testifying?

A. To review the transcripts, yes.

Q. And, you're testifying here today in English, correct?

A. Yes.

Q. But you're not an expert in the English language; is that correct?

1 A. Yes.

2 Q. And, you're not an expert in translating from
3 Spanish into English either; is that correct?

4 A. No, I'm not an expert.

5 Q. And, you early said that -- earlier said that
6 Agent Uribe is your handler at this moment; is that
7 correct?

8 A. I did not say that.

9 Q. Okay. Well, is Agent Uribe your handler?

10 A. We haven't talked if he's my handler. I still --
11 anything, I talk to Brenda first. I talk more with him
12 right now, but it hasn't been saying that Brenda Born is
13 not the handler any more. I still have contact with
14 Brenda if I need to.

15 Q. So, who is your designated handler?

16 A. As of right now, it's Fernando.

17 Q. Fernando Uribe?

18 A. Yes.

19 Q. Okay. And when did he become your designated
20 handler?

21 A. Oh -- I can't recall. I will say probably a year
22 ago, or a year and a half ago.

23 Q. Okay. And, have you communicated with him by
24 text message?

25 A. Text message, e-mail, and phone.

1 Q. So, that's a yes?

2 A. Yes.

3 Q. Okay. And you communicated him -- communicated
4 with him by text message before January 2015; is that
5 fair to say?

6 A. Yes.

7 Q. And, you did that on your personal cellphone,
8 correct?

9 A. I do on the -- my personal phone and also on the
10 phone that was provided for the FBI sometimes.

11 Q. All right. Now, the government already admitted
12 Exhibit 23-A and 23-A-1, so I'd like you to turn your
13 attention to that.

14 But first, I'm going to play a clip from that
15 recording for you. And I don't want you to look at the
16 transcript at this moment.

17 MS. RALLS: And I'm going to play at time
18 stamp 1 hour, 14 minutes and 9 seconds, for anybody that
19 wants to follow along.

20 THE COURT: I'm not sure how we follow
21 along.

22 MS. RALLS: No. Some of the other counsel
23 are taking notes about the sections that I'm referring
24 to, and I believe the government is, too. So I'm just
25 letting everybody know where I'm going to play from.

1 BY MS. RALLS:

2 Q. All right. Now, Mr. Garcia, let me know if you
3 can hear this. I'm going to play about 41 seconds.

4 (Audio played.)

5 BY MS. RALLS:

6 Q. Mr. Garcia, are you able to hear that?

7 A. It's not clear.

8 Q. Let's try again.

9 MS. MARTINEZ: Your Honor, for the record,
10 I'm sitting right next to her and I can't hear it.

11 MS. RALLS: Let's see. Let's try again.

12 (Audio played.)

13 BY MS. RALLS:

14 Q. Can you hear it now?

15 A. Still can't hear it that well.

16 Q. You can't hear it that well.

17 Let's see. Put it by the speaker. Let's try one
18 more time. If it doesn't work, then I'll move on.

19 (Audio played.)

20 Q. Are you able to hear it?

21 A. Hear it, but still, you don't hear it clear.

22 Q. Okay.

23 THE COURT: If you want to use it -- you
24 don't want to use it in English? Is this a -- you don't
25 want to use it in English?

1 If you don't want to use it in English, you
2 don't have to.

3 MS. RALLS: I don't want to use the English.

4 THE COURT: All right.

5 BY MS. RALLS:

6 Q. Well, now, we'll refer to the transcript. With
7 the assistance of the court security officer, could we
8 turn to Government's Exhibit 23-A-1.

9 And if you could turn to page 29. Up to --
10 well --

11 A. What page?

12 Q. Page 29. Let me know when you've turned to that
13 page and had a chance to review it.

14 A. Okay.

15 Okay.

16 Q. All right. And this is Mr. Castillo speaking; is
17 that correct?

18 A. Yes.

19 Q. And, the 10th entry down, about halfway,
20 Mr. Castillo says, "But just like this homie told me,
21 dude, since I wasn't, I wasn't over there, you know.
22 The ones that were there were them, you know."

23 A. What part is --

24 Q. In the middle. Do you see where it says that?
25 Where OC is speaking, it starts with "No, he was," and

1 then halfway through that little paragraph.

2 A. Sorry. I wasn't reading the right page.

3 Q. Okay. We're on page 29.

4 A. Yes. I was on page 20, I'm sorry.

5 Q. You're on page 29 now?

6 A. I'm going to review.

7 Q. Okay. Go ahead.

8 A. Okay.

9 Q. Have you finished reviewing that page?

10 A. Yes.

11 Q. If I --

12 MS. RALLS: Court's indulgence, one moment.

13 BY MS. RALLS:

14 Q. And this is the part of the conversation where
15 you're asking about Lil Guasón; is that correct?

16 A. Yes.

17 Q. And then during that portion of the conversation,
18 Mr. Castillo says, "I wasn't over there, you know. The
19 ones that were there were them, you know." Is that
20 correct?

21 A. Yes.

22 Q. All right. Now, I'd like to direct your
23 attention to Exhibit 8-A -- 8-A-1, actually, excuse me.
24 And I'd like to direct your attention to page three.

25 A. You want me to review the whole page?

1 Q. If you would, please.

2 A. Okay.

3 Q. In this section of the conversation -- well, let
4 me back up.

5 This conversation takes place on January 26,
6 2014, correct?

7 A. Yes.

8 Q. And, in this section on page three, and a little
9 bit before, you and Mr. Castillo are talking about a
10 general meeting that happened a few days before,
11 correct?

12 A. Yes.

13 Q. And, it was at that meeting that somebody pulled
14 a knife on you, correct?

15 A. Yes.

16 Q. And it was another person named Lil Payaso,
17 correct?

18 A. Yes.

19 Q. So, there's two Lil Payasos?

20 A. Yes.

21 Q. And, in fact, you were feuding with that other
22 Lil Payaso at that time; isn't that correct?

23 A. Yes.

24 Q. Because he had disrespected you?

25 A. Let me make it clear. He pulled a knife because

1 he was arguing with me. He was -- it was more a guy
2 that he didn't want to -- he didn't want him to be in
3 that meeting. So, either he pulled the knife on me or
4 for the other guy, I'm not sure. But he did pull a
5 knife in front of the two of us.

6 Q. And before that meeting, the other Lil Payaso had
7 been disrespecting you, correct?

8 A. Yes.

9 Q. And, at that time, you were one of the leaders of
10 the East Coast program, correct?

11 A. No.

12 Q. And, it was a knife, correct, that he pulled out,
13 not a gun?

14 A. A knife.

15 Q. All right. But in the middle here, you say,
16 "Fuck, but they took out a gun, man." So that's an
17 error on that entry; isn't that correct?

18 A. Um, where?

19 Q. It's one, two, three, four -- it's the sixth
20 entry. It's also highlighted on the screen.

21 A. Yes.

22 THE COURT: Are you on page three?

23 MS. RALLS: I'm on page -- I'm on the third
24 page of the transcript. I think the copy that I'm
25 referring to might be paginated differently. I believe

1 it would be the fifth page of the overall document.

2 THE COURT: Oh, I see. Mine are numbered at
3 the bottom right. You say it's page five?

4 MS. RALLS: Yes, sir.

5 THE COURT: Okay. I was looking at the
6 wrong page. Okay.

7 THE WITNESS: So what page is it?

8 THE COURT: It's page number five.

9 MS. RALLS: Page number five of your
10 document.

11 THE COURT: At the bottom right corner it
12 says five.

13 THE WITNESS: I'm reading there.

14 BY MS. RALLS:

15 Q. Okay. Take your time.

16 A. Okay.

17 Q. So, where it says, "but they took out a gun,
18 man," that's incorrect, isn't it?

19 A. Yes.

20 Q. Because it was actually a knife?

21 A. Yes.

22 Q. And you had a chance to look over these
23 transcripts, but you missed that, right?

24 A. Yes.

25 Q. Okay. So, this person, this other Lil Payaso, he

1 broke a gang rule by bringing a weapon to the meeting,
2 right?

3 A. Yes.

4 Q. And that's a very serious rule that he broke?

5 A. Yes.

6 Q. So, you stated in that meeting that that person
7 would have to receive a *calentón*; isn't that correct?

8 A. Yes.

9 Q. And you left, though, before it happened?

10 A. Yes.

11 Q. But the *calentón* was carried out that day?

12 A. Yes.

13 Q. And it's -- in this exhibit, it's after you're
14 talking about that *calentón* that you and Mr. Castillo
15 start talking about someone named Lloron, L-l-o-r-o-n.

16 A. On what page?

17 Q. It's the bottom of that page, continuing on to
18 the next.

19 A. Okay.

20 Q. And, in this conversation, Mr. Castillo is
21 telling you things that you had already heard from other
22 people --

23 A. Yes.

24 Q. -- isn't that correct?

25 He didn't tell you anything new that you hadn't

1 heard before, right?

2 A. Not that I -- that I can recall.

3 Q. Okay. And if you go to page seven, and the third
4 entry down, OC says --

5 A. I haven't finished reading it.

6 Q. Oh, go ahead. Sure.

7 A. Okay.

8 Q. Right. The third part down, OC says, "So, then
9 the dude, the dude was never willing to give the papers,
10 you know what I mean? I think it is because he was --
11 he had already screwed Peluca, the homie, you know."

12 That's an instance where Mr. Castillo was telling
13 you things that you had already heard from other people,
14 right?

15 A. Yes.

16 Q. And, this person that you're talking about,
17 Lloron, Mr. Castillo says he had only seen this person
18 once, right?

19 A. Yes.

20 Q. And that he had seen him at a restaurant?

21 A. No.

22 Q. On page eight, that big chunk of text where OC is
23 speaking --

24 A. I'm reviewing the page.

25 Q. Okay.

1 A. Okay.

2 Q. Mr. Castillo says, "So then we went there to the
3 restaurant," correct?

4 A. Yes.

5 Q. And in this portion of the conversation,
6 Mr. Castillo is using the plural word "we," right?

7 A. Yes.

8 Q. And that's something you said that you had done
9 earlier when talking about things that other people in
10 your clique had done, right?

11 A. Yes.

12 Q. You sometimes refer to your clique as "we" --

13 A. Yes.

14 Q. -- even if you weren't there, right?

15 A. Yes.

16 Q. And this Lloron, he's not in your clique, right?

17 A. No.

18 Q. And, Mr. Castillo was not associated with your
19 clique at all, right?

20 A. No.

21 Q. All right. And again, also on page six -- excuse
22 me -- page eight, where Mr. Castillo says, "They were
23 really suspicious," in that same chunk of text, he's
24 talking about other people within his clique, correct?

25 A. Yes.

1 Q. And when he says, "they were asking for papers,"
2 again that's other people in his clique, right?

3 A. Yes.

4 Q. And when he says, "What I understood from that
5 homie," that's other people in his clique, right?

6 A. Yes.

7 Q. Now, if you go to page nine, take a moment to
8 review that and let me know when you're ready.

9 A. Okay.

10 Q. All right. And, in this portion of the
11 conversation, Mr. Castillo says, "There were a lot of
12 rumors going around about Lloron"; is that correct?

13 A. Yes.

14 Q. Because this conversation happened in January,
15 right?

16 A. Let me make sure. Yes.

17 Q. And that's about four months after Lloron went
18 missing, right?

19 A. Yes.

20 Q. So, there had been a lot of rumors spread about
21 in that four months, right?

22 A. Right.

23 Q. And even you had heard the rumors, right?

24 A. Yes.

25 Q. And, again, when Mr. Castillo talked to you in

1 January, he didn't tell you anything other than what you
2 had already heard in those rumors, right?

3 A. Yes.

4 Q. All right. Now, I'd like to direct your
5 attention to Government's Exhibit 9-A-1. If you go to
6 your page four, which starts with, "Coughs. Yeah, man."

7 A. Which page again?

8 Q. Page four.

9 THE COURT: It's actually page two.

10 MS. RALLS: I'm sorry.

11 THE COURT: Page two. You said "Coughs.
12 Yeah man," if that's what you're looking for.

13 THE WITNESS: Okay.

14 BY MS. RALLS:

15 Q. Do you recall having this conversation with
16 Mr. Castillo?

17 A. Yes.

18 Q. And this conversation took place January 29th,
19 2014?

20 A. Yes.

21 Q. In this conversation, you and Mr. Castillo are
22 talking about rumors about what gang members had done,
23 correct?

24 A. Yes.

25 Q. And about whether Lil Thunder had been released

1 from jail, right?

2 A. Yes.

3 Q. And whether Silencio had been released from jail?

4 A. Yes.

5 Q. Because the news about what's going on with other
6 cliques is not always clear, right?

7 A. Yes.

8 Q. So you're telling Mr. Castillo what people in
9 your clique have done, right?

10 A. I don't see anything saying about my clique here.

11 Q. Was Silencio someone who was associated with your
12 clique?

13 A. No.

14 Q. Do you know which clique he was associated with?

15 A. PVLS.

16 Q. And this was around the same time, I believe --
17 it was a couple days after the conversation depicted in
18 Exhibit 8-A-1, correct?

19 A. Yes.

20 Q. So that's the time there were a lot of rumors
21 going around, right?

22 A. Yes.

23 Q. All right. And, you had also heard about the
24 killing of Lagrima from another person named Greñas,
25 right?

1 A. Yes.

2 Q. And, when he described the incident to you, he
3 omitted any reference to Lil Payaso; isn't that correct?

4 A. Yes.

5 Q. Now, you heard about a time when the body of
6 Lagrima was reburied, right?

7 A. Yes.

8 Q. And, it was your understanding that the people
9 who were -- well, strike that.

10 Mr. Castillo was not at the reburial; isn't that
11 correct?

12 A. Not that I know of.

13 Q. Okay. And, you were not there when Lagrima died;
14 isn't that correct?

15 A. No.

16 Q. It's not correct, or you were not there?

17 A. I was not there.

18 Q. And, you were not there when Lil Guasón died?

19 A. I was not there.

20 Q. You only heard about it from other people, right?

21 A. Yes.

22 Q. And that's because the -- those people want to
23 increase their reputation in the gang, right?

24 A. Um, well, the conversation that I have doesn't
25 sound to me that they want to increase their reputation.

1 Q. Well, you were a leader in the gang, right?

2 A. Yes.

3 Q. And, you had been in the gang for a long time,
4 right?

5 A. I was Silvas clique, not -- I wasn't leader of
6 the gang. The gang could be MS. I wasn't leader of MS.
7 At that point I was the leader of the clique.

8 Q. Okay. So you were a leader of the clique. And
9 had you been in the gang for a long time, right?

10 A. Yes.

11 Q. You had weekly meetings for the Silvas; is that
12 correct?

13 A. I'm sorry?

14 Q. You had weekly meetings for the Silvas clique?

15 A. No.

16 Q. How often did you have meetings for the Silvas
17 clique?

18 A. It changed since 2002 to -- to 2012, it could be
19 once a month. And since 2002 it was probably once a
20 week, twice a week.

21 Q. I want to focus on the time that you were the
22 first word of Silvas.

23 A. Probably was once a month or every three months,
24 probably.

25 Q. And you were the one that set up those meetings,

1 right?

2 A. We all set up the meetings, because sometimes I
3 didn't have time for it, and the other guys pick out the
4 day. But, I was the -- the one that tell them what time
5 I was available. So I had coordinate with my handler
6 first.

7 Q. Did you tell your handler about each and every
8 time that you had a Silvas clique meeting?

9 A. Yes.

10 Q. Now, I believe you testified earlier that you
11 sent money to gang members in El Salvador; is that
12 correct?

13 A. Yes.

14 Q. You sent that money to Silvas members in El
15 Salvador?

16 A. Yes.

17 Q. All right. And to the best of your knowledge,
18 they were using that money to purchase weapons in El
19 Salvador; isn't that correct?

20 A. Some of them, they were using -- well, what they
21 told me, they use it for food, clothes, and I'm not sure
22 if they had use it for guns.

23 Q. But some of them stated to you that their
24 purpose, whether or not they actually did it, their
25 purpose was to buy weapons?

1 A. Yes.

2 Q. Now, you got a good reputation in the gang,
3 right?

4 A. Yes.

5 Q. You were first word in Silvas clique, right?

6 A. Yes.

7 Q. You -- other people respected you, right?

8 A. Yes.

9 Q. We heard someone named Payaso, who was the leader
10 of another clique, he respected you, right?

11 A. Yes.

12 Q. And someone named Big Poison in El Salvador, he
13 respected you, right?

14 A. Yes.

15 Q. And these people were leaders of other cliques --

16 A. Yes.

17 Q. -- right?

18 Now, when people suspected that you were a
19 snitch, you told Payaso that they need to cut it out,
20 right?

21 A. Yes.

22 Q. And, Payaso believed that you were not a snitch,
23 right?

24 A. Yes.

25 Q. So, he told those other people, cut it out,

1 right?

2 A. Yes.

3 Q. Because you have such a good reputation with the
4 gang, they wouldn't believe it, right?

5 A. Yes.

6 Q. And, this Payaso, he was the first word of PVLS?

7 A. Yes, from the inside, from jail.

8 Q. And that was from about 2012 to 2015, right?

9 A. Yes.

10 Q. And, it could even be true today?

11 A. I don't know.

12 Q. Now, to get a good reputation in the gang, you
13 have to tell other people that you've committed acts of
14 violence, right?

15 A. Not really.

16 Q. Okay. But you did tell other people that you
17 committed acts of violence, right?

18 A. Yes.

19 Q. You told them that you beat up rival gang
20 members, *chavalas*?

21 A. Yes.

22 Q. And, you told other gang members that you made
23 money by selling drugs, right?

24 A. Not that I recall, that one.

25 Q. And, you told other people that you had even

1 killed somebody in about 2005, right?

2 A. No.

3 Q. Didn't you tell people that you were the one that
4 killed Snoopy, from the trial that you testified in?

5 A. No.

6 Q. Isn't it true that -- strike that.

7 Now, you told Mr. Salvato, who was before me,
8 that you were not trying to manipulate his client,
9 Christian.

10 A. Yes.

11 Q. Is that correct?

12 But you've been manipulating gang members for
13 years, right?

14 A. I was -- just know how to talk to them.

15 Q. You know how to talk to them to increase your
16 reputation, right?

17 A. Not to increase, because they already knew me.

18 Q. Okay. Your -- you know how to talk to them to
19 gain their trust?

20 A. Yes.

21 Q. All right. You're manipulating them to gain
22 their loyalty, right?

23 A. I don't manipulate nobody.

24 Q. Okay. But you talk to them in such a way that
25 you try to gain their respect, right?

1 A. I just trying to find out some information to
2 help -- could be a victim or prevent a crime.

3 Q. So, I'm not asking about the information that
4 you're trying to get from other people.

5 A. Okay.

6 Q. I'm asking about the information that you're
7 giving to other people.

8 A. Okay.

9 Q. Okay? So the information that you're giving to
10 other people, you're doing that to try to gain respect
11 in the gang, right?

12 A. No.

13 Q. So, when you tell other people that you beat up
14 *chavalas* --

15 A. Yes.

16 Q. -- you're not doing that to try to gain respect
17 in the gang?

18 A. No, just to try to have a conversation, that they
19 feel comfortable and they're able to trust me.

20 Q. Okay. So you're trying to gain their trust,
21 then?

22 A. Not gain their trust; just make them feel
23 comfortable.

24 Q. Okay.

25 A. Because they already trust me. They wouldn't be

1 talking to me if they didn't trust me. So I'm not
2 trying to --

3 Q. So it's necessary to lie to them about things you
4 had done; isn't that correct?

5 A. Up to some point.

6 Q. Now, we talked about -- you've been cooperating
7 with the government for about ten years, correct?

8 A. Yes.

9 Q. And during that time they gave you cash payments,
10 right?

11 A. Yes.

12 Q. And, they paid for some of your expenses, right?

13 A. Yes.

14 Q. But you've also been working a little?

15 A. Yes.

16 Q. Were you working at least a little between
17 September 26, 2014, and March 26, 2015?

18 A. Say that again.

19 Q. Were you working, even a little, between
20 September 26, 2014, and March 26, 2015?

21 A. Yes.

22 Q. Did you receive any cash from FBI during that
23 period?

24 A. Yes.

25 Q. Because it was during this time -- well, it

1 was -- excuse me. September 2014 was a few months after
2 you had led the FBI to some bodies; isn't that correct?

3 A. Yes.

4 Q. Now, we talked about your bankruptcy petition
5 earlier.

6 A. Yes.

7 Q. After you filed that petition, you had to go to a
8 meeting with somebody from -- well, with the trustee
9 from the Bankruptcy Court; isn't that correct?

10 A. I have a lawyer at that time.

11 Q. So, you had a lawyer?

12 A. Yes.

13 Q. Okay. Did you go with your lawyer to a meeting
14 with the trustee?

15 A. Yes.

16 Q. Okay. And the trustee is something that works
17 with the court, right?

18 A. Yes.

19 Q. And the trustee puts you under oath, right?

20 A. Yes.

21 Q. And they ask you to state that everything in your
22 bankruptcy petition is true, right?

23 A. Yes.

24 Q. And did you say yes, that everything in your
25 petition was true?

1 A. Yeah.

2 Q. Did you tell them that you had not been working
3 for the six months prior to the date that you filed your
4 petition?

5 A. I talked to my lawyer about the details, that
6 sometimes --

7 Q. You have to answer questions to somebody other
8 than your lawyer, right?

9 A. No, not really. I just talk to my lawyer, and
10 any questions, my lawyer -- my lawyer was the one who
11 answer.

12 Q. But, didn't you just testify that you went to a
13 meeting with the trustee?

14 A. Yeah, I mean, we went to a meeting, but like I
15 said, it was my lawyer there.

16 Q. But, didn't the trustee put you under oath?

17 A. Yes.

18 Q. The trustee didn't put your lawyer under oath.

19 A. Yes.

20 Q. So you were the one answering questions, right?

21 A. Yes.

22 Q. And you answered that you had no income for the
23 six months before you filed your bankruptcy petition,
24 right?

25 A. Yes.

1 Q. But that wasn't true, was it?

2 A. No, it wasn't.

3 Q. Now, some of these expenses that we talked about,
4 they included dues paid to the gang, right?

5 A. Yes.

6 Q. And, you got reimbursed for that money from the
7 FBI?

8 A. Yes.

9 Q. And, you also got some money to send to other
10 gang members in El Salvador, correct?

11 A. Yes.

12 Q. And those were part of your expenses?

13 A. Yes.

14 Q. Now, you stated that you received some money, or
15 some people related to you, received some money to help
16 relocate. I don't know -- want to know where they
17 relocated to, but before they were relocated, were they
18 in this country?

19 MS. MARTINEZ: Objection, Your Honor. May
20 we approach?

21 THE COURT: All right.

22 (Thereupon, the following side-bar
23 conference was had:)

24 THE COURT: Tell me why you ask that
25 question.

1 MS. RALLS: Your Honor, the information that
2 we have is that the government paid for relocation
3 expenses. If they relocated from outside the country,
4 into the country, I would like to know if they received
5 immigration assistance to get a visa, because, that
6 would be a benefit that came to them from this witness's
7 cooperation with the government.

8 THE COURT: Do you have any facts for this
9 question, or you're just shooting in the dark?

10 MS. RALLS: Well, Your Honor, he testified
11 that he immigrated illegally, and that he received
12 benefits from the FBI to relocate them. All I want to
13 know is, were they outside the country, were they
14 relocated within the country, from one state to another,
15 whatever, or were they in another country and brought to
16 the United States.

17 He received --

18 THE COURT: Hold on. I don't recall him
19 saying anything about his family being relocated while
20 he was doing law enforcement work, do you? Is that what
21 he said?

22 MS. RALLS: Your Honor, I believe that he
23 did testify that he received benefits. I believe he
24 testified on direct that the government paid for his
25 family to relocate.

1 MR. AMOLSCH: The government may have also
2 provided a letter, Judge, disclosing that.

3 THE COURT: I'm just trying to find out the
4 factual evidence.

5 Yes.

6 MS. MARTINEZ: Your Honor, we have provided
7 ample *Giglio* disclosures for this witness, including
8 everything that's been asked about on cross-examination
9 and direct.

10 We did disclose that the money was spent to
11 aid in relocation of family members. And that is the
12 only factual basis. I will tell you that visas were not
13 obtained. If they were, that would be something we
14 would have to disclose. So, she has no factual basis
15 for that.

16 But getting into where family members are
17 located, or were located or will be located, even
18 broadly speaking by states or countries, is completely
19 inappropriate.

20 MS. RALLS: Your Honor, if this witness
21 believed that his family had received government
22 benefits in the form of immigration assistance, that
23 would be entirely relevant.

24 And I just want to know what this -- if this
25 witness either knows or believes what has been provided

1 to his family. Was it just the relocation expenses?

2 THE COURT: So your question really is: To
3 your knowledge, did the government assist your family
4 members in obtaining a visa?

5 MS. RALLS: That's correct.

6 THE COURT: You want to ask about how much
7 money they gave his family? Do you want to ask that
8 question?

9 MS. RALLS: I believe that was covered on
10 direct, so I wasn't intending to.

11 THE COURT: I'll sustain the objection to
12 where they were located from. That doesn't matter.
13 What you really want to know is whether or not they got
14 visa assistance from the government.

15 MS. RALLS: I'll rephrase.

16 (Thereupon, the side-bar conference was
17 concluded.)

18 THE COURT: Now, you can proceed.

19 BY MS. RALLS:

20 Q. Let me rephrase my question.

21 To your knowledge, did your family receive any
22 immigration assistance from the government when they
23 relocated?

24 MS. MARTINEZ: Objection, Your Honor. May
25 we approach?

1 THE COURT: Yes.

2 (Thereupon, the following side-bar
3 conference was had:)

4 MS. MARTINEZ: If Ms. Ralls wants to ask
5 whether the U.S. Government procured U.S. immigration
6 status or benefits for family member, that's one thing.
7 But to go into, was any immigration assistance received
8 when they relocated, this is broadly insinuating --
9 that's a broad question, and it's going to terrify this
10 witness.

11 MS. RALLS: Your Honor, any benefits that
12 have been provided to him and his family, we believe are
13 fair game. And I tried to tailor the question in such a
14 way that it would not frighten the witness, as the
15 government stated.

16 THE COURT: Let's make sure. I think that
17 your concern is -- about the issue of relocation. Is
18 that what you're concerned about?

19 MS. MARTINEZ: Yes, Your Honor.

20 THE COURT: Well, what is the question that
21 you think she asked?

22 I thought she asked the question, if they
23 received any visa assistance.

24 MS. MARTINEZ: Well, she didn't say "visa
25 assistance." She said: Immigration assistance when

1 they were relocating."

2 That's a very broad question that could mean
3 this country, that could mean other countries.

4 THE COURT: Okay.

5 MS. MARTINEZ: That can mean a number of
6 things. And "immigration assistance" could mean helping
7 get from one border to another, that could mean a lot of
8 things.

9 And I don't want to say anything on the
10 record because the defendants are listening, but,
11 certainly, if a -- if a U.S. visa was provided to a
12 family member, that would be a benefit, and, certainly
13 that would be something that would be disclosed in
14 *Giglio*.

15 To my knowledge, that has not occurred,
16 which is why it was not disclosed in *Giglio*, to my
17 knowledge.

18 If she wants to ask that to see if this
19 witness contradicts that, I think that question is fair.
20 But, any questions about his family, where his family
21 is, whether his family has been relocated, he is very
22 concerned about his family's safety, he's terrified
23 about these defendants getting information about his
24 family. He's much more concerned about his family's
25 safety. And this is really walking close to the line,

1 for no reason.

2 THE COURT: Okay.

3 Yes?

4 MS. RALLS: Your Honor, any assistance --
5 and I think my question was even broader than what the
6 Court had intimated -- any immigration assistance,
7 whether it's into the country, out of this country,
8 between countries, any assistance that's been given by
9 the United States Government is relevant.

10 THE COURT: If you had a factual basis for
11 that question, I would allow it. But I've asked you to
12 tell me the factual basis, and do you have anything that
13 you can point to that says the government gave his
14 family a visa.

15 Or are you just shooting in the dark? Can
16 you tell me.

17 MS. RALLS: Your Honor, I believe it -- it
18 could be reasonably likely, because this witness has
19 stated that he did receive immigration assistance from
20 the United States Government, and, the government stated
21 that they paid him and they paid for expenses for his
22 family, and I'm -- I would like to know if they also
23 received immigration benefits.

24 THE COURT: Okay. What I'm going to do is
25 sustain the objection. If you want to ask if the

1 government sponsored a visa for any family member, you
2 may ask that question, but nothing else. Clear?

3 MS. RALLS: Yes. I will write it down.

4 THE COURT: That is acceptable?

5 MS. MARTINEZ: Yes.

6 THE COURT: You may ask whether the
7 government obtained a U.S. visa for a family member --

8 MS. MARTINEZ: U.S. visa.

9 THE COURT: -- as a part of your cooperation
10 with the government.

11 MS. RALLS: Your Honor -- right, Your Honor.
12 Any visa is relevant, we believe. And even -- I think
13 the government is expressing a concern for the safety of
14 this witness, but my question was even broader than the
15 United States.

16 THE COURT: I understand that, and that's
17 the exact reason I'm not going to let you do it, is
18 because Brenda Paz was murdered because she testified in
19 an MS-13 trial.

20 I don't think you understood. I'm trying to
21 make clear, I'm not trying to have a situation where
22 this record becomes a basis for retaliation. I want to
23 handle this one case, not another.

24 I'll write down the question you're going to
25 ask. Or did you write it down?

1 MS. RALLS: Yes, I did.

2 THE COURT: Just ask that question and not
3 another. Thank you.

4 (Thereupon, the side-bar conference was
5 concluded.)

6 BY MS. RALLS:

7 Q. Mr. Garcia, to the best of your knowledge, did
8 the United States Government sponsor a visa for any of
9 your family members?

10 MS. MARTINEZ: Objection, Your Honor. May
11 we approach?

12 THE COURT: Yes.

13 MS. RALLS: Your Honor, I'll rephrase.

14 THE COURT: Thank you.

15 BY MS. RALLS:

16 Q. Mr. Garcia, to the best of your knowledge, did
17 the United States Government sponsor a U.S. visa for any
18 of your family members?

19 A. Yes.

20 Q. And, was that sponsorship in -- in relationship
21 to your assistance for the FBI?

22 A. Yes.

23 Q. I know you don't want to answer too many
24 questions about your family, so I'll move on from that.

25 Mr. Garcia, while you're cooperating with the

1 government, you're not -- excuse me.

2 When we were talking about things you had told
3 other gang members, You also told Mr. Lemus Cerna,
4 Christian, that you had attacked a gang member named
5 Conejo, C-o-n-e-j-o?

6 A. Yes, I was in a fight with Conejo once.

7 Q. Okay. And, that individual was associated with
8 the Centrales clique?

9 A. No, he was a Big Gangster, I believe. The clique
10 was a Big Gangsters.

11 Q. Big Gangsters, that's the name of a clique?

12 A. Yes.

13 Q. And, isn't it also true that you authorized a
14 beating for one of the *chequeos* in your clique, Uzi?

15 A. Not that I can recall. I know he got a beating,
16 but I can't recall if it was me that authorized it.

17 Q. Okay. So, you know that Uzi did get a beating?

18 A. Yes.

19 Q. But you don't remember if you authorized it not?

20 A. No, I didn't authorize it. But I wasn't allowed
21 to authorize that. If he has an issue with the people
22 that were -- was there, of course, they're going to call
23 me that, you know, they're going to do a beating.

24 But, it was -- I always make sure on the phone,
25 that, "Well, it's up to you. It's your decision, not

1 mine." And it's always been on the phone recordings.

2 Q. So, now you do remember that you did not
3 authorize that, correct?

4 A. Yes.

5 Q. And, you made that call on your recorded FBI
6 phone?

7 A. Yes, that's where they call me.

8 Q. Okay. And, you ended up excluding Uzi from your
9 clique; is that correct?

10 A. Yes.

11 Q. And there was another *chequeo* named Hansel; is
12 that correct?

13 A. Yes.

14 Q. And, you also -- well, you authorized a beating
15 on Hansel because he wanted to switch cliques; is that
16 correct?

17 A. No, he actually -- he made the decision to switch
18 clique, and he knows the rules that he has to -- to --
19 in order for him to become for a different -- *chequeo*
20 from a different clique, he has to get a beating. It's
21 not actually from us, give it to him, it just was his
22 decision.

23 Q. So, he got a beating from the Silvas?

24 A. Yes.

25 Q. And then, did he also get a beating from his new

1 clique?

2 A. Yes.

3 Q. And you authorized the beating for -- from the
4 Silvas?

5 A. I did not authorize it.

6 Q. But, you're the first word, right?

7 A. Yes.

8 Q. And isn't it also true -- well, is it -- it's
9 true that you ordered a hit on a *chavala* near Loehmann's
10 Plaza in 2014?

11 A. No.

12 Q. And, a gang member in your clique was convicted
13 of that killing, correct?

14 A. Not that I remember.

15 Q. Okay. You sent somebody to hit a *chavala* at the
16 El Palenque restaurant; isn't that correct?

17 A. No.

18 Q. And, you beat up somebody with Lil Slow; isn't
19 that correct?

20 A. No, I didn't beat up anybody. We had an
21 altercation with this guy that -- he approached me and,
22 you know, he tried to kind of swing at me. So I just
23 defend myself, I just push him back. But we didn't beat
24 him, me and Slow.

25 Q. So, you pushed him and that's it, altercation?

1 A. Yes. Then, because he was -- he said that he was
2 a *chequeo*, or part of a different clique in Maryland.

3 Q. And, you were collecting extortion rents from a
4 brothel in the Culmore area, correct?

5 A. Yes, once I was authorized by the -- by the FBI.

6 Q. And that was in Culmore in Virginia?

7 A. Yes.

8 Q. Isn't it true that Lagrima told you not to
9 collect that rent because it wasn't your clique's
10 sector?

11 A. Yes.

12 Q. And, you didn't like it when Lagrima told you to
13 stop collecting rent from that brothel?

14 A. Yes.

15 Q. And, you were mad at him for telling you to stop
16 doing that, right?

17 A. We were always arguing. He was always like, I
18 mean, a person like to argue back and forth, and we were
19 back and forth all the time.

20 Q. Isn't it true that you had heard that Lagrima was
21 going to get punished before October 2013?

22 A. No, I can't recall that one.

23 Q. Okay. Now, we talked about the clique meetings,
24 and I want to talk about the general meetings as well.

25 You set the schedule for the general meetings on

1 occasion; isn't that correct?

2 A. Yes.

3 Q. And, you decided at which hotel they would be
4 held?

5 A. First I would talk to always with my handlers,
6 how we're going to -- which was the safety place for us
7 to -- to do a meeting.

8 Q. Okay. And then you would pick a hotel, right?

9 A. Yes, close by.

10 Q. And you would tell others to reserve that hotel
11 room, right?

12 A. Yes.

13 MS. RALLS: Court's indulgence, Your Honor.
14 No further questions. Thank you.

15 CROSS-EXAMINATION

16 BY MR. CHICK:

17 Q. Good afternoon, sir. How are you?

18 A. Good.

19 Q. My name is Mike Chick. I'm the attorney for
20 Manuel Ernesto Paiz Guevara. Okay?

21 A. Okay.

22 Q. You were asked on direct testimony by
23 Ms. Martinez about attending all kinds of different gang
24 meetings, right?

25 A. Yes.

1 Q. And, you were shown a bunch of photographs of
2 people who were at these meetings, right?

3 A. Yes.

4 Q. Okay. And, Ms. Martinez had you identify a bunch
5 of people, right?

6 A. Yes.

7 Q. She had you identify people in photographs?

8 A. Yes.

9 Q. And, she had you identify people, actually a
10 bunch of people here in court, right?

11 A. Yes.

12 Q. Okay. Um, and, Ms. Martinez never asked you to
13 identify anybody named Solitario, right?

14 A. No.

15 Q. Solitario.

16 A. No.

17 Q. Okay. Um, because, as you said, you don't -- you
18 don't know Solitario, right?

19 A. No.

20 Q. I'm right, that you do not know Solitario?

21 A. I saw him once, but that was about it. So, I --

22 Q. Okay.

23 A. -- I cannot -- he was sleeping. He was -- I
24 wasn't even -- I didn't see his complete face.

25 Q. You saw him once and you said he was asleep when

1 you saw him?

2 A. Yes, he was sleeping.

3 Q. Okay. So you've never spoken to him, right?

4 A. No.

5 Q. Okay. And, you saw him once when he was asleep.
6 But you also -- you've heard about him in conversations
7 that you've had, right?

8 A. Yes.

9 Q. Okay. Um -- and I'm going to keep calling him
10 Solitario. His name is Manuel Ernesto Paiz Guevara, but
11 I'm going to call him Solitario because that's the name
12 you that know of when you heard of him, right?

13 A. Okay.

14 Q. Okay. When you talked about those -- the gang
15 meetings that you went to, like the general meetings,
16 for example, you identified people who were there, who
17 went, who were *chequeos*, right?

18 A. Yes.

19 Q. They were recruits?

20 A. Yes.

21 Q. Low level guys?

22 A. Yes.

23 Q. And, you saw those *chequeos* in the photographs at
24 the general meetings and you identified those *chequeos*,
25 right?

1 A. Yes.

2 Q. And, you even identified a *chequeo* who was from
3 PVLS, right?

4 A. Yes.

5 Q. Okay. And, you also identified at least one
6 *paro*, right?

7 A. Yes.

8 Q. That's like kind the next level down under
9 *chequeo*?

10 A. Yes.

11 Q. And that *paro* that you identified, who went to
12 this general meeting, was also from PVLS, right?

13 A. Yes.

14 Q. Okay. But, Solitario never, right?

15 A. No.

16 Q. Okay. But, *chequeos*, it's not uncommon for a
17 *chequeo* to go to that general meeting in the context
18 that we saw it, right?

19 A. They're not allowed to go inside the meeting, but
20 they're allowed to, if they feel like it, just be
21 outside.

22 Q. Right. Sometimes they're asked to go and to be
23 there and to look out and that kind of stuff.

24 A. Yes.

25 Q. That's normal, right?

1 A. Yes.

2 Q. Okay. And, your -- your -- I'm going to call it
3 your assignment. Your assignment on this case, your job
4 on this case was, it was about at least ten months,
5 right?

6 A. Yes.

7 Q. Almost a whole year, right?

8 A. I would say more than that.

9 Q. It was even longer than that?

10 A. Yes, it was longer.

11 Q. Okay. And during -- during that time, part of
12 your -- in order to do your job, and to do it well, you
13 had to -- you had to kind of be -- you had to hang out
14 with these guys, right?

15 A. Yes.

16 Q. You had to put in the time, right?

17 A. Yes.

18 Q. Because, the only way to really build trust with
19 people is to put in the time with them, right?

20 A. Yes, but the time I was putting in was by phone.

21 Q. Okay. But you also had to put in some face time,
22 right?

23 A. Yes.

24 Q. Okay. Because one of the things that you wanted
25 to do, you're -- you're good at what you do. You think

1 that, right?

2 A. Um, I just do what is right, but I'm not saying
3 that I'm good, nothing is going to happen to me.

4 Q. Okay. Well, one of the things that you do in
5 order to be good at what you do is, you try to learn as
6 much as possible, right?

7 A. Yes.

8 Q. You try to get as much information as possible,
9 right?

10 A. Yes.

11 Q. And, you really try to get that information, not
12 just general information, but you want to get specific
13 information, right?

14 A. Yes.

15 Q. Okay. Information about what's going on?

16 A. Yes.

17 Q. Information about things that have already
18 happened?

19 A. Yes.

20 Q. Information about things that are going to happen
21 in the future?

22 A. Yes.

23 Q. Okay. Information about who is doing what?

24 A. Yes.

25 Q. Information about who did what back in the past?

1 A. Yes.

2 Q. And about who's talking about doing what in the
3 future, right?

4 A. Yes.

5 Q. Okay. Um, and during that time that you had been
6 working on this case, you said over a year, you were
7 parts of thousands and thousands of hours of recorded
8 conversations, right?

9 A. Yes.

10 Q. And, you -- you said like with some of the people
11 it was -- you talked to these people well over 50 times,
12 right?

13 A. Yes.

14 Q. Multiple people, you talked with over the phone,
15 in recorded conversations, well over 50 times?

16 A. Yeah.

17 Q. To get that information?

18 A. Yes.

19 Q. And to get those specifics, right?

20 A. Yes.

21 Q. Right?

22 A. Yes.

23 Q. Okay. Um, because it's really important when
24 you're doing this, I mean, this is serious stuff. You
25 would agree with that, right?

1 A. Yes.

2 Q. And it's really important when you're doing this,
3 um, you want to get the information directly from the
4 people who were there, right?

5 A. Yes.

6 Q. You're not trying to get secondhand information?

7 A. Yes.

8 Q. And you also want to get information directly
9 from -- when you're getting information about what a
10 certain person did, you want to get information from
11 that person about their perspective, right?

12 A. Yes.

13 Q. Not just what other people were saying about
14 them, right?

15 A. Yes.

16 Q. You want to go to that person?

17 A. Yes.

18 Q. Because that's the most credible source, right?

19 A. Yes.

20 Q. You want to hear it from their own mouth?

21 A. Yes.

22 Q. And, in this case, it's fair to say that you
23 really went out of your way to do just that, right?

24 A. Yes.

25 Q. So -- so, for example, even though Leopardo would

1 tell you something --

2 A. Yes.

3 Q. -- about who did what, you didn't just take what
4 he said. You then tried to follow up on that and go to
5 whoever that was and hear their perspective, right?

6 A. Yes.

7 Q. And, you tried to do that in a recorded
8 conversation, right?

9 A. Yes.

10 Q. And, you kept doing that and you kept pushing to
11 try to get more information, right?

12 A. Yes.

13 Q. Um, so, for example, if Leopardo -- I'll use him
14 again because you had a lot of phone calls with him --
15 if he would talk about somebody, like if he would
16 mention Pesadilla and what Pesadilla did, or Duende, or
17 Lil Poison --

18 A. Yes.

19 Q. -- you would go to Pesadilla, right?

20 A. Yes.

21 Q. Or you would go to Duende?

22 A. Yes.

23 Q. You would go to Poison --

24 A. Yes.

25 Q. -- or Lil Poison.

1 Sometimes Lil Poison is called Poison, right?

2 A. Sometimes.

3 Q. Okay. And then you would get it from them,
4 right?

5 A. Yes.

6 Q. Okay. And so, just kind of going down, not --
7 not the complete list, but a short list of some of the
8 people whose own mouths that you went to and who told
9 you from themselves what they did, okay? Leopardo?

10 A. Yes.

11 Q. And these are all recorded things that they told
12 you what they did, right?

13 A. Yes.

14 Q. Pesadilla?

15 A. Yes.

16 Q. Taliban, over the telephone?

17 A. Yes.

18 Q. Yes?

19 Lil Payaso?

20 A. Yes.

21 Q. Payaso?

22 A. Yes.

23 Q. Greñas?

24 A. Yes.

25 Q. Lil Poison?

1 A. Yes.

2 Q. And a bunch of other people?

3 A. Yes.

4 Q. And, it's true that you heard directly from every
5 defendant in this courtroom about what they did, except
6 for Solitario, right?

7 A. Yes.

8 Q. You never talked to him, to hear from him about
9 his perspective about anything, did you?

10 A. No.

11 Q. And so, for everybody else you did it one way,
12 but when it comes down to this one specific person,
13 Solitario, with him, it's true, you're just relying on
14 what other people say, right?

15 A. Yes.

16 Q. And, you did have some phone calls where you
17 talked about Solitario, right?

18 A. Some phone -- can you repeat that question?

19 Q. You had some telephone calls where you were
20 talking about somebody else, where you were talking
21 about Solitario?

22 A. Yes.

23 Q. Okay. And you asked other people about him?

24 A. Yes.

25 Q. Because, it was important to you to try to find

1 out what his -- what his role was in -- in this stuff,
2 right?

3 A. Yes.

4 Q. But, it wasn't important to you to find out what
5 his role was from him, right?

6 A. I'm sorry. Say that again.

7 Q. It wasn't important to you to find out from him
8 what his role was?

9 A. I wanted to find information as best I can from
10 whoever was involved.

11 Q. Okay. So my question -- I'm going to ask it
12 again. Was it important to you to find out from him --

13 A. Yes.

14 Q. -- what his role was?

15 A. Yes.

16 Q. But you didn't do that?

17 A. No.

18 Q. Okay. And specifically, it was important to you
19 to find out what his role was with respect to the death
20 of Lil Guasón?

21 A. Yes.

22 Q. Who sometimes I'll call Gerson or Gerson, okay?

23 A. Okay.

24 Q. We're on the same page, right?

25 A. Yes.

1 Q. Okay. And, you -- you did talk with -- with
2 multiple people about -- about his role, right?

3 A. Yes.

4 Q. You said that? Okay.

5 And, so, I know the government yesterday,
6 Ms. Martinez, she asked you some questions and she
7 showed you some transcripts about a few things that were
8 said --

9 A. Yes.

10 Q. -- about him, right?

11 A. Yes.

12 Q. Okay. Um, but you had other calls where you
13 talked about him, too, right?

14 A. Yes.

15 Q. Okay. Um, so, for example, you had a call with
16 Leopardo on May 9th, which was one of the same days that
17 the government played for you yesterday, right?

18 A. Yes.

19 Q. And in that call, um, Leopardo told you that
20 Solitario was -- he was Gerson's best friend?

21 A. Yes.

22 Q. He told you that Solitario did not know about the
23 plan to kill Gerson, right?

24 A. Yes.

25 Q. He told you that Solitario panicked when Gerson

1 started to get stabbed, right?

2 A. Yes.

3 Q. And he actually told you that multiple times in
4 that conversation, right?

5 A. Yes.

6 Q. And, just to take a specific line translated to
7 English about what he said, he said, "I called him, and
8 he just stayed there looking panicked," right?

9 A. Yes.

10 Q. And then he told you after all the others stabbed
11 him, that Solitario was ordered to stab Gerson, right?

12 A. Yes.

13 Q. And, what he told you, what Leopardo told you,
14 was it was at that -- it was at that moment when
15 Solitario used the knife on Gerson's expired body,
16 right?

17 A. Yes.

18 Q. And -- and I just want to be clear: And it was
19 before that that Solitario was panicked, right?

20 A. Yes.

21 Q. And he also told you that after that, he still
22 seemed very panicked, right?

23 A. Yes.

24 Q. Long after that, right?

25 A. Yes.

1 Q. Okay. But you never observed Solitario yourself,
2 right?

3 A. No.

4 Q. Okay. And at one point in your discussion, you
5 were talking to Leopardo, and you used -- you said this
6 about Solitario and the whole situation and him being
7 ordered. You said, "Yeah, man. If -- if he had cut up
8 right there, it would have been his turn, right? You
9 would have hit him if he had cut up."

10 A. Yes.

11 Q. What does that mean?

12 A. They would see that he wouldn't be part of the
13 murder, probably he would have end up dead as well.

14 Q. Okay. Did -- did the government ever give you a
15 transcript of that call to review?

16 A. Yes.

17 Q. They did?

18 A. I have the calls, all the calls they have review.

19 Q. Okay. And that wasn't just the only call. You
20 had other calls where he said that he froze up and that
21 he panicked, right?

22 A. Yes.

23 Q. And that he was afraid?

24 A. Yes.

25 Q. Let me ask you, did you say you got into MS-13

1 back in like 2002? Is that what it was?

2 A. Yeah, around 2002.

3 Q. Why did you -- why did you join MS-13?

4 A. At the beginning, it was, you -- it was like kind
5 of friendship. It was after school. They used to get
6 together, probably go to a club. It was nothing major
7 in that specifically happened at that time. So, it just
8 pretty much was kind of friends.

9 Q. It starts out kind of innocent?

10 A. I would say that, yes.

11 Q. Like they're buddying up with you, you're talking
12 about --

13 A. Yes.

14 Q. -- normal stuff, playing soccer, girls --

15 A. Yes.

16 Q. -- maybe some marijuana little stuff like that,
17 right?

18 A. Some of that they did, yes.

19 Q. And it kind of gradually goes from there, right?

20 A. Yes.

21 Q. And they sort of groom you into getting into this
22 culture?

23 A. Yes.

24 Q. Okay. And then before you know it, you're --
25 you're in way deeper than you want to be, right?

1 A. That's right.

2 Q. And you feel trapped?

3 A. That's true.

4 Q. And, it's not weird for somebody to be trapped in
5 a situation like we're talking about with Solitario,
6 right?

7 A. Yes.

8 Q. Um, I want to go back -- I want to go back to
9 something that I think you said in one of the
10 transcripts yesterday, and I don't have the specific
11 transcript exhibit number in front of me. But, I
12 think in one of the transcripts you had mentioned that
13 you were talking to somebody about Solitario, and
14 somebody told you that he was, quote, "already wet." Do
15 you remember that?

16 A. Yes.

17 Q. Okay. And, you said that "already wet" means
18 that he already has a murder to his name.

19 A. Yes.

20 Q. Okay. Is there any other way to interpret that?

21 A. No. That's the only one.

22 Q. Okay. If he had another murder, why would he
23 still be a *chequeo*?

24 A. He was waiting to -- -- he pick a date to be
25 jumped in, which was June the -- June the -- Friday the

1 13th.

2 Q. Okay. He told you that?

3 A. No, he did not.

4 Q. Okay. Somebody else said that that was the date?

5 A. Yes.

6 Q. And they said that he's the one that picked it,
7 right?

8 A. Yes.

9 Q. They didn't say that they picked it for him?

10 A. No.

11 Q. Okay. So, but you don't know what the truth is?

12 A. No.

13 Q. Okay. Well -- all right. Can you tell me,
14 because I know following up on the details is really
15 important, what was that murder, what was that prior
16 murder all about?

17 A. Which one?

18 Q. The prior murder that he was already -- that he
19 was already wet from?

20 A. Oh, he was a *chequeo* from PVLS.

21 Q. Okay. What -- who did he murder?

22 A. Um, Lil Guasón.

23 Q. But, before that, who did he murder?

24 A. I don't know. As far as I know -- I don't know
25 that he kill anybody before.

1 Q. Okay. If -- that's an important thing, if you
2 heard somebody say that he was already wet --

3 A. Yes.

4 Q. -- before Lil Guasón --

5 A. Yes.

6 Q. -- you'd follow -- you'd want to follow up on
7 that, right?

8 A. Yes.

9 Q. Um, and you don't know of anybody that he
10 supposedly murdered?

11 A. No.

12 Q. Okay. Not even a hint of anybody that he
13 supposedly murdered?

14 A. No.

15 Q. Okay. And there's no rumors about anybody
16 specific that he supposedly murdered, are there?

17 A. No, no one besides Lil Guasón.

18 Q. There are no rumors or there is no information
19 about when he supposedly murdered somebody?

20 A. No.

21 Q. Okay. Um, and, we don't have any details about
22 how he supposedly would have murdered somebody in the
23 past?

24 A. No.

25 Q. Okay. And you didn't ask about any details like

1 that?

2 A. No.

3 Q. Okay. Um, you've been working for the FBI for
4 ten years?

5 A. Yes.

6 Q. That's -- like when you hear about a murder, when
7 murder comes up, I mean, in your mind, I'm guessing
8 that's -- you want to follow up on those details, right?

9 A. Yes.

10 Q. Okay. But you didn't?

11 A. Didn't what? Follow what details?

12 Q. When somebody told you that Solitario was already
13 wet --

14 A. Yes.

15 Q. -- you didn't follow up on that -- on those
16 details at all?

17 A. I already knew that he -- that he was part of
18 killing Lil Guasón. I already knew --

19 Q. Okay.

20 A. -- kind of -- kind of the details of what
21 happened.

22 Q. Okay. I think maybe we're not on the same page,
23 so, I'll just -- because yesterday it sounded like you
24 were saying, you interpreted "already wet" as he
25 murdered somebody else before Lil Guasón. You're saying

1 "already wet" was referring to him being part of Lil
2 Guasón?

3 A. Yes.

4 Q. Okay. The one that we just talked about?

5 A. Yes.

6 Q. Where he was panicked?

7 A. Yes.

8 Q. Okay.

9 And, you know that prior to the Lil Guasón
10 killing --

11 A. Yes.

12 Q. -- that he was a *chequeo*, right?

13 A. Yes.

14 Q. Okay. And, do you know why he wasn't told about
15 the plan to murder Lil Guasón?

16 A. No, I wasn't told. They didn't tell me why, they
17 didn't tell anything.

18 Q. Okay. And then you know that after Gerson was
19 killed, that he was still a *chequeo*, right?

20 A. Yes.

21 Q. That he wasn't jumped in that night?

22 A. No.

23 Q. And he hadn't been jumped in since then, right?

24 A. No.

25 Q. And you talked about a lot of calls yesterday, a

1 lot of phone calls that you have. I know it wasn't all
2 the calls that you had, but you talked about a lot of
3 them, right?

4 A. Yes.

5 Q. It's fair to say that -- well, let me start with
6 this. You mentioned Solitario's name in some of the
7 calls, right?

8 A. Yes.

9 Q. But it's fair to say that in most of the calls,
10 his name was never brought up?

11 A. Yes.

12 Q. Okay. Including most of the calls that you
13 talked about yesterday?

14 A. Yes.

15 Q. Okay. And, in many of the calls there was talk
16 about the killing of Lil Guasón -- right?

17 A. Yes.

18 Q. -- that didn't even involve -- where his name
19 didn't come up even when that killing was talked about,
20 right?

21 A. Yes.

22 Q. Um, you talked a little bit about like devil
23 worship kind of stuff.

24 A. Yes.

25 Q. It sounds like that's like fairly common in MS.

1 A. Yes.

2 Q. Or at least fairly common with some people?

3 A. Yes.

4 Q. Fair to say that everybody in MS doesn't worship
5 the devil?

6 A. Most of them.

7 Q. Most of them do?

8 A. Yes.

9 Q. Do you?

10 A. No.

11 Q. Okay. Well, how about when you got into MS in
12 2002; did you worship the devil then?

13 A. No.

14 Q. Okay. So there are people who are in MS-13 who
15 don't worship the devil, right?

16 A. Yes.

17 Q. Okay. And, you'd never heard any talk about
18 Solitario worshipping the devil?

19 A. No.

20 Q. Or that he does worship the devil?

21 A. No.

22 Q. Or that he talks about the beast or feeding the
23 beast or anything like that, have you?

24 A. No.

25 Q. Okay.

1 MR. CHICK: Court's indulgence.

2 THE COURT: Yes.

3 MR. CHICK: No further questions, Your
4 Honor. Thank you very much.

5 CROSS-EXAMINATION

6 BY MS. AMATO:

7 Q. Good afternoon, Mr. Garcia.

8 A. Good afternoon.

9 Q. My name is Elita Amato and I, along with Jerry
10 Aquino, represent Mr. Chavez.

11 A. Okay.

12 Q. I'm going to talk to you first about Duende, all
13 right? You've told us that you know a guy named Duende,
14 correct?

15 A. Yes.

16 Q. And Duende goes by the -- another nickname as
17 well, correct?

18 A. Yes.

19 Q. And that nickname you know as Enanito, correct?

20 A. Yes.

21 Q. And Duende is a person that you've never meet in
22 person?

23 A. Yes.

24 Q. All right. But you've talked to him over the
25 telephone at least ten times, correct?

1 A. Yes.

2 Q. And, you're also Facebook friends with him,
3 correct?

4 A. I'm sorry?

5 Q. You are also Facebook friends with him, correct?

6 A. No.

7 Q. No. All right.

8 So, your contact with Duende was merely by
9 telephone, correct?

10 A. Yes.

11 Q. So if Duende walked through the doors today, you
12 wouldn't even know what he looked like, correct?

13 A. No.

14 Q. And, Duende was an MS member, correct?

15 A. Yes.

16 Q. All right. And Duende belonged to the PVLC
17 clique, right?

18 A. PVLS.

19 Q. PVLS, excuse me. PVLS clique, all right. Which
20 you've been talking about and telling us about, correct?

21 A. Yes.

22 Q. All right. And, you talked to us about two phone
23 calls that you had with Duende.

24 A. Yes.

25 Q. All right. And one of those phone calls, it was

1 just you and Duende on the phone, correct?

2 A. Yes.

3 Q. And, you called him. You initiated the called,
4 correct?

5 A. Yes.

6 Q. All right. And you initiated the call because
7 you had wanted -- you had heard about a shooting that
8 took place on June 19th of 2014, correct?

9 A. Yes.

10 Q. And so you wanted to find out more information,
11 correct?

12 A. Yes.

13 Q. Because as your job as someone who was trying to
14 get information for the FBI, this was one of the things
15 you needed to find out about, correct?

16 A. Yes.

17 Q. All right. And you reached out to Duende because
18 you knew that he lived or he -- he hung out in the area
19 where the shooting occurred.

20 A. Yes.

21 Q. All right. And you knew that area as the
22 Chirilagua area, correct?

23 A. Yes.

24 Q. And so you called him, and then you spoke with
25 him about what happened, correct?

1 A. Yes.

2 Q. And, in that phone call, it was just you and
3 Duende, correct?

4 A. Yes.

5 Q. So you were relying just on what he was telling
6 you?

7 A. Yes.

8 Q. And, he was the one who told you what happened,
9 according to him, correct?

10 A. Yes.

11 Q. He's the one who told you that supposedly Taliban
12 was the shooter, correct?

13 A. Yes.

14 Q. All right. And again, that was in the
15 conversation with just you and Duende, correct?

16 A. Yes.

17 Q. And you relied on him, correct?

18 A. Yes.

19 Q. And, then you provided that information to the
20 FBI, correct?

21 A. Yes.

22 Q. And they relied on Duende then as well, correct?

23 A. Yes.

24 Q. And, in that phone call -- why don't you turn --
25 it's Government's Exhibit 21-A-1. Do you have that in

1 front of you?

2 A. No.

3 Q. Okay. Why don't you just get it so you have it.
4 So, in this phone call --

5 THE COURT: Just a second. He doesn't have
6 it in front of him.

7 MS. AMATO: I'm sorry. And I'm not going to
8 refer to it just yet, but just so long as he has it. It
9 should be 21-A-1, is the transcript.

10 BY MS. AMATO:

11 Q. All right. So you see the transcript now,
12 correct?

13 A. Yes.

14 Q. All right. And this is a call that occurred on
15 June 27th of 2014, correct?

16 A. Yes.

17 Q. And it's just you and Duende?

18 A. Yes.

19 Q. All right. And, Duende, again, is the one who
20 puts Taliban in the mix, correct?

21 A. Yes.

22 Q. All right. He says the name Taliban. You had
23 never meet Taliban?

24 A. No.

25 Q. All right. And, you had never met him at this

1 time, correct?

2 A. No.

3 Q. And, you never met him after that, correct?

4 A. No.

5 Q. Never in person seen him?

6 A. No.

7 Q. Okay. Now, you were aware that this guy,
8 Taliban, was referred to MS through a guy named Blacky,
9 correct?

10 A. Yes.

11 Q. All right. And in fact, in this phone call, you
12 and Duende discussed that, correct?

13 A. Yes.

14 Q. All right. And, there was a problem with that,
15 right?

16 A. Um, I need to read what are you referring to.

17 Q. Okay. Well, I'm going to -- if you don't
18 remember, you can just say you don't remember at this
19 point.

20 A. Okay.

21 Q. All right? So, the problem was that Blacky --
22 was thought that Blacky was a rat, correct?

23 A. I don't remember this. I would like to read it.

24 Q. All right. So let's -- why don't you turn to
25 page four.

1 MS. AMATO: And if we can also put that on
2 the screen for -- and I will -- they can't see.

3 BY MS. AMATO:

4 Q. And page four is -- I'm looking at the bottom
5 numbers on page four.

6 A. You want me to read a specific part or the whole
7 page?

8 Q. Well, let me direct you, all right? I'm going to
9 direct you -- first of all, on the top of the page it
10 says JC, correct?

11 A. Yes.

12 Q. There is an initial JC. And that's Duende,
13 correct?

14 JC is -- stands for Duende?

15 A. Let me -- I don't -- like I say, I don't know
16 them by name.

17 Q. All right. Why don't you go to the very first
18 page.

19 A. Yes.

20 Q. All right. And on that first page it indicates
21 who the initials are.

22 A. Yes.

23 Q. And you've got a JC, and that's for Duende,
24 correct?

25 A. Yes.

1 Q. All right. Now, go back to page four.

2 A. Okay.

3 Q. All right. And so the first speaker we've got is
4 JC. That's Duende, correct?

5 A. Yes.

6 Q. All right. So if you count down speakers, we go
7 to the eighth, I believe -- one, two, three, four, five,
8 six, seven, eight. And in this conversation -- this
9 portion, it's you, speaking, correct? You're the eighth
10 speaker there?

11 A. Yes.

12 Q. And, you say, "It's not anyone else's word then,
13 right? That's why, that's why when -- right, we hear
14 that Blacky had sent the dude, you know, what was the
15 first reactions are, you know?"

16 And then Duende's response is, "Nah, yeah, I
17 thought the same thing, too, man, you know? Hey, hey, I
18 thought the same thing, too, dog, right? You tell me
19 this, right? He comes with the word from a son of a
20 bitch that supposedly is ratting, you know?"

21 A. Yes.

22 Q. Okay. So you -- so, Blacky was thought was
23 ratting, correct?

24 A. Yes, they thought that Blacky was.

25 Q. Right. They thought that Blacky was a rat?

1 A. Yes.

2 Q. MS -- the MS gang thought Blacky was a rat,
3 correct?

4 A. Yes.

5 Q. All right. And we've heard a lot about the
6 problem with rats in the gang, right?

7 A. Yes.

8 Q. And, of course, ratting means -- rat is someone
9 who is ratting on others to the police, correct?

10 A. Correct.

11 Q. Cooperating, correct?

12 A. Yes.

13 Q. Basically what you're doing, correct?

14 A. Yes.

15 Q. You are a rat?

16 A. I don't consider myself a rat.

17 Q. Sorry?

18 A. I don't consider myself a rat.

19 Q. You may not consider yourself a rat, but, MS
20 would think you're a rat, right?

21 A. They will, yes.

22 Q. Okay. And here -- but here they're not talking
23 about you as a rat, they're talking about Blacky as a
24 rat.

25 A. Okay.

1 Q. Right?

2 A. Yes.

3 Q. And so, there was a problem with that, and Duende
4 is saying, basically, to you that because he thought
5 that Taliban was a rat, that he didn't trust him,
6 correct?

7 A. Yes.

8 Q. All right. Because you don't trust rats, right?
9 Well, MS-13 does not trust rats, correct?

10 A. Yes.

11 Q. And rats are people that they don't like,
12 correct?

13 A. Yes.

14 Q. That they don't -- that they hurt, right?

15 A. Yes.

16 Q. There's no problem hurting a rat, correct?

17 A. That's what they do.

18 Q. Right. And, they lie on rats, right?

19 A. They what?

20 Q. Lie on rats?

21 A. What do you mean, "lie on"?

22 Q. I mean, they'll do anything they need to do to a
23 rat, right?

24 A. Yes.

25 Q. They lie to get them to come to parks, right?

1 A. Yes.

2 Q. Okay. So they lie on rats all the time.

3 And it doesn't matter if they hurt them, because
4 it's a rat?

5 A. Yes.

6 Q. They green light rats, correct?

7 A. Yes.

8 Q. Although you never meet Taliban, you knew that
9 Taliban, this Taliban, was not a homeboy, correct?

10 A. Yes.

11 Q. All right. He was not even a *chequeo*, correct?

12 A. Yes.

13 Q. He wasn't even a *paro*, correct?

14 A. Yes.

15 Q. So when you're saying yes, you're agreeing with
16 me, correct?

17 A. Yes.

18 Q. All right. So basically, this Taliban was a
19 nobody, correct?

20 A. Yes.

21 Q. Connected to a rat?

22 A. Yes.

23 Q. Now, besides Taliban, in this conversation that
24 you had with Duende, he talked about another person
25 called Gatuso, correct?

1 A. Yes.

2 Q. All right. And you told us on direct that not
3 only did you speak to Gatuso, but you actually met him
4 in person several times.

5 A. Yes.

6 Q. All right. And Gatuso was an MS member, like
7 Duende, correct?

8 A. Yes.

9 Q. All right. So he was a homie, correct?

10 A. Yes.

11 Q. All right. But Gatuso was a kid looking for a
12 clique?

13 A. Yes.

14 Q. All right. And, in fact, there's discussion
15 about that in this same phone call, on page 11. I'd
16 like you to turn to page 11?

17 THE COURT: We'll start at page 11 right
18 after the break.

19 MS. AMATO: Oh, okay. Thank you.

20 THE COURT: Thank you.

21 Fifteen minutes.

22 (Jury not present.)

23 THE COURT: You can step down, sir.

24 (Witness stood aside.)

25 THE COURT: All right, 15 minutes.

1 (Court recessed at 3:30 p.m. and reconvened
2 at 3:48 p.m.)

3 (Jury not present.)

4 THE COURT: Before you start, Ms. Amato, I
5 understand that Ms. Ralls wants to say something.

6 MS. AMATO: Certainly.

7 MS. RALLS: Your Honor, I'm asking for a
8 jury instruction about benefits that have been provided
9 to this witness that have not been disclosed.

10 I'm also asking for the government's
11 redirect to be limited to this witness, to not discuss
12 any immigration benefits.

13 And also, for the record, I'm asking that
14 the case against my client be dismissed, and I'll tell
15 you why.

16 There has been a pattern of failure to
17 disclose on behalf of the government. And, that is a --
18 a *Jencks* and *Giglio*, Your Honor.

19 THE COURT: If you want to take up a motion,
20 we can take it up at 5:00 o'clock. I thought you had
21 something to do with this witness. I'm not trying to do
22 motion during trial.

23 MS. RALLS: I understand, Your Honor.

24 THE COURT: So, I'm not going to restrict
25 the government's redirect. Since you asked the question

1 about immigration, she's entitled to immigration about
2 it. And I'll take up jury instructions at the end of
3 the trial.

4 MS. RALLS: I understand, Your Honor.

5 I would like to take up the issue, at least
6 of the government's redirect of the witness, of course,
7 before they're able to get to the redirect.

8 THE COURT: What is it -- how am I to
9 restrict their redirect?

10 MS. RALLS: Your Honor, the government has
11 not disclosed certain immigration benefits that have
12 been provided to this witness's family. The government
13 has attempted to limit defense counsel's questioning, my
14 questioning of the witness about the immigration
15 benefits provided to his family. And I believe that's
16 in an effort to cover up the fact that they have not
17 disclosed these benefits.

18 THE COURT: Okay. Well, again, I'm going to
19 take up jury instructions at the end of the case.

20 I'm not going to restrict redirect, since
21 you opened it up on direct, as you were entitled to do,
22 and I guess there was a factual basis for your question
23 about whether or not the family was receiving
24 immigration status. But I would like for my trial to
25 proceed now.

1 MS. RALLS: Yes, Your Honor.

2 THE COURT: Thank you.

3 MS. RALLS: I will --

4 THE COURT: Five o'clock, have at it.

5 MS. RALLS: Yes, sir.

6 THE COURT: Bring our jury out, please.

7 (Jury present at 3:51 p.m.)

8 THE COURT: You may be seated.

9 You can bring our witness back, please.

10 (Witness resumed stand.)

11 THE COURT: You may proceed.

12 MS. AMATO: Thank you, Your Honor.

13 CROSS-EXAMINATION (Continued)

14 BY MS. AMATO:

15 Q. Good afternoon, again, Mr. Garcia.

16 A. Uh-huh.

17 Q. All right. I'd like to bring us back to where we
18 were before we stopped.

19 A. Okay.

20 Q. You had Government's Exhibit 21-A-1 in front of
21 you.

22 A. Yes.

23 Q. Okay. You still have it, correct?

24 A. Yes.

25 Q. All right. And, before we stopped, we had

1 started talking about a person with the -- the nickname
2 Gatuso.

3 A. Yes.

4 Q. Do you recall that?

5 A. Yes.

6 Q. Okay. And, Gatuso, as you had mentioned, that
7 you had -- you had actually met Gatuso on several
8 occasions, correct?

9 A. Yes.

10 Q. All right. But those meetings occurred after
11 this conversation, correct?

12 A. Yes.

13 Q. All right. And, in fact, the first -- strike
14 that.

15 Now, Duende is the one who brings up the name
16 Gatuso, correct?

17 A. Yes.

18 Q. Because he's again telling you his version,
19 supposedly, of what occurred on the shooting of June
20 the 19th, correct?

21 A. Yes.

22 Q. And, he tells you that Gatuso is a kid looking
23 for a clique, correct?

24 A. Yes.

25 Q. And, you knew -- you understood that to mean that

1 Gatuso already was a homeboy, correct?

2 A. Yes.

3 Q. But he was looking for a new clique to join,
4 correct?

5 A. Yes.

6 Q. All right. And, let's just turn to page 11,
7 what's marked as 11 on the bottom of Government's
8 Exhibit's 21-A-1.

9 MS. AMATO: And I'm going to ask that it be
10 put on the screen, Ms. Bishop. And highlight the
11 portion. And --

12 THE COURT: Do you want him to read the
13 page?

14 MS. AMATO: Excuse me?

15 THE COURT: Do you want him --

16 MS. AMATO: No, I'm going --

17 THE COURT: -- to read the page?

18 MS. AMATO: -- to have it highlighted,
19 actually.

20 THE COURT: I'm asking if you want him to
21 read it.

22 MS. AMATO: I'm going to, but I just first
23 am waiting for it to be highlighted, Your Honor, if
24 that's okay.

25 BY MS. AMATO:

1 Q. Can you see the highlighted portion?

2 Mr. Garcia, can you see the highlighted portion?

3 A. Yes.

4 Q. Okay. And the speaker here again, JC, is Duende,
5 correct?

6 A. Yes.

7 Q. All right.

8 MS. MARTINEZ: Your Honor, I'm going to
9 object. I'd like the witness to be able to read the
10 page so that he understands the context before he begins
11 asking questions -- answering questions about specific
12 quotes.

13 MS. AMATO: Your Honor, I'm not doing
14 anything different than what the government counsel had
15 done at various times as well, which is to highlight
16 certain portions. He can certainly read --

17 THE COURT: Just a second. Just a second.

18 What I'd like to do is let him read it
19 first, then you can ask every specific question you
20 have. Let him read it first. Thank you.

21 MS. AMATO: Fine.

22 BY MS. AMATO:

23 Q. Mr. Garcia, why don't you read the full page.

24 A. Okay.

25 Q. All right. Now, I'd like to direct you to the

1 portion that we have highlighted for you. Do you see
2 that?

3 A. Yes.

4 Q. All right. And, the person who's speaking there
5 is Duende, correct?

6 A. Yes.

7 Q. All right. And Duende says -- he's talking about
8 this guy named Gatuso. He says, "This kid that was
9 looking for a clique, too, doggy, you know, this kid
10 Gatuso from Via Satélite," correct?

11 A. Yes.

12 Q. All right. And, so this is information, again,
13 you're relying on from Duende, correct?

14 A. Yes.

15 Q. All right. And, it's Duende who believes that
16 Gatuso is a member of the Via Satélite clique, correct?

17 A. Yes.

18 Q. And he wanted to join another clique, correct?

19 A. Yes.

20 Q. Now, you were then introduced to Gatuso through
21 Duende, correct?

22 A. Yes.

23 Q. All right. And, Duende actually asked you to go
24 and give this guy, Gatuso, money, right?

25 A. Not that I remember.

1 Q. All right. Well, you end up giving him money,
2 correct?

3 A. Yes.

4 Q. All right. And it's because -- and it's based on
5 Duende asking you to reach out to Gatuso, correct?

6 A. Yes.

7 Q. All right. And you learned that Gatuso was on
8 the run in Maryland, correct?

9 A. Yes.

10 Q. All right. And he was on the run in Maryland
11 after the June 19th shooting in Chirilagua, correct?

12 A. Yes.

13 Q. All right. And, you -- you actually speak with
14 him by telephone first, correct?

15 A. Yes.

16 Q. All right. And in these phone calls with him, he
17 tells you how he's out in -- he's out hiding in
18 Maryland, correct?

19 A. Yes.

20 Q. And, he tells you that he knows the police are
21 looking for him, correct?

22 A. Yes.

23 Q. And, he tells you he knows the police are going
24 to all the places that he's known to live in, in
25 Virginia, correct?

1 A. Yes.

2 Q. Including his baby's mother's house, correct?

3 A. Yes.

4 Q. But he's out in Maryland, correct?

5 A. Yes.

6 Q. And his hope is to find a job in Maryland, right?

7 A. Yes.

8 Q. So he can support himself?

9 A. Yes.

10 Q. And start a new life, correct?

11 A. I don't know about that. He just --

12 Q. Well, he wants --

13 A. -- looking for a job.

14 Q. Okay. Well, he informed you that he wanted to
15 find work in Maryland, correct?

16 A. Yes.

17 Q. And then he was going to find an apartment,
18 correct?

19 A. Not that I can recall --

20 Q. You don't recall.

21 A. -- mentioning an apartment.

22 Q. That's fine.

23 But, you offer to help him out, correct?

24 A. About what?

25 Q. With money?

1 A. Yes.

2 Q. All right. And you even offer to give him shoes
3 and clothes and things like that, correct?

4 A. Yes.

5 Q. And so you meet him, right?

6 A. Yes.

7 Q. In person?

8 A. Yes.

9 Q. All right. And, in one of these meetings, you do
10 give him some money, right?

11 A. Yes.

12 Q. And you give him some clothes?

13 A. Yes.

14 Q. All right. And, at some point, though, he
15 actually comes back to Chirilagua, correct?

16 A. Yes.

17 Q. All right. And, he does that because he's really
18 concerned about the gun that was used in the shooting,
19 correct?

20 A. Yes.

21 Q. All right. And so, he's -- he's willing to leave
22 his hiding place in Maryland to go get that gun,
23 correct?

24 A. Yes.

25 Q. And you go with him, correct?

1 A. Yes.

2 Q. And you go with him because you want to get that
3 gun as well, right?

4 A. Yes.

5 Q. Because you're working for the police, correct?

6 A. Yes.

7 Q. And you want that -- and we've heard that in the
8 past you've already given two guns to police, correct?

9 A. Yes.

10 Q. And so, you wanted to do the same thing here,
11 correct?

12 A. Yes.

13 Q. But Gatuso, he wanted to get that gun for just
14 the opposite reason, correct?

15 A. Yes.

16 Q. He wanted to get that gun so police wouldn't get
17 that gun, right?

18 A. Yes.

19 Q. And so, the two of you meet, and you go to the
20 apartment of the guy that supposedly had the gun,
21 correct?

22 A. Yes.

23 Q. And, when you get there, the guy is not there,
24 correct?

25 A. Yes.

1 Q. But his brother's there, right?

2 A. Yes.

3 Q. And you go to the apartment, right?

4 A. Yes.

5 Q. And, the brother basically gives you the phone
6 number of the guy who supposedly has the gun, correct?

7 A. Yes.

8 Q. So that you and Gatuso and call him, correct?

9 A. Yes.

10 Q. And, the guy who supposedly has the gun, on the
11 telephone basically says, "I already got rid of it,"
12 correct?

13 A. Yes.

14 Q. All right. Now, Gatuso is still concerned about
15 that guy, right?

16 A. Yes.

17 Q. He's concerned that the guy is not telling the
18 truth --

19 A. Yes.

20 Q. -- correct?

21 That the guy still has the gun, correct?

22 A. Yes.

23 Q. And he is also concerned that the guy is going to
24 turn into a rat as well?

25 A. Yes.

1 Q. Gatuso's word, the guy is going to rat on him,
2 correct?

3 A. Yes.

4 Q. And you guys talk about that.

5 A. Yes.

6 Q. And you talk about how the first time, when you
7 and Gatuso went to speak with the guy who supposedly had
8 the gun, that you were soft with him, right?

9 A. Yes.

10 Q. And you just spoke to him, correct?

11 A. Yes.

12 Q. But next time, Gatuso says, "You guys got to get
13 rough on him," right?

14 A. Rough on who?

15 Q. Well, Gatuso wanted to get violent on the guy who
16 supposedly had the gun, correct?

17 A. Yes.

18 Q. And even -- and not only the guy who had the gun,
19 but his brother, correct?

20 A. Yes.

21 Q. The brother who didn't know anything about
22 anything, correct?

23 A. He knew about the gun.

24 Q. Oh, he did know about it?

25 A. Yes.

1 Q. Okay. All right. So, but the point was that
2 Gatuso wanted to get violent on both of them, correct?

3 A. Yes.

4 Q. Because he was afraid they were going to rat on
5 him --

6 A. Yes.

7 Q. -- about the gun.

8 A. Yes.

9 Q. And you were going to --

10 MS. AMATO: Oh, I'm sorry. Going too fast?

11 THE COURT: I've been advised, too. I've
12 been admonished, too. I know I've been talking fast.
13 Hopefully, the jurors could understand. I know the
14 interpreters could not understand me. I apologize.

15 MS. AMATO: I'm sorry, Your Honor. I will
16 slow down.

17 BY MS. AMATO:

18 Q. Now, the second meeting with the guy who
19 supposedly had the gun never occurred, correct?

20 A. No.

21 Q. Because the guy disappeared, right?

22 A. Yes.

23 Q. He and his brother, right?

24 A. I don't know what happened after that.

25 Q. Okay.

1 A. If they disappeared or they still there. I don't
2 know.

3 Q. They both disappeared, correct?

4 A. I don't know.

5 Q. All right. Well, they're no longer living there,
6 correct?

7 A. I don't know.

8 Q. You don't know. Okay.

9 All right. Now, I want to direct your attention
10 to the second phone call that you have with Duende,
11 which is Government's Exhibit 22-A-1. Let me know when
12 you have it.

13 A. I do have it.

14 Q. Thank you.

15 Now, in this phone conversation, it's not just
16 you and Duende, correct?

17 A. Yes. That's correct.

18 Q. There's more than, than the just of two of you
19 speaking, correct?

20 A. Yes.

21 Q. All right. And, in this phone call, there is
22 supposedly an individual by the name of Taliban who is
23 speaking, correct?

24 A. Yes.

25 Q. All right. Now, again, you've never meet this

1 Taliban in person?

2 A. No.

3 Q. Not before this phone call, correct?

4 A. No.

5 Q. Not after this phone call?

6 A. No.

7 Q. And, you don't really know what his voice sounds
8 like, correct?

9 A. No.

10 Q. All right. So, you're just relying on what
11 people are telling you, that this person you're speaking
12 to is Taliban, correct?

13 A. Yes.

14 Q. And Taliban's a kind of common name, right,
15 nickname?

16 A. Taliban?

17 Q. Taliban, yes?

18 A. Not really.

19 Q. No? You've never heard of someone else with the
20 name Taliban before?

21 A. No. Except the news.

22 Q. You've never heard of a Julio Estuardo Córdoba,
23 who uses the nickname Taliban?

24 A. No.

25 Q. Okay. All right. Now, in this call, there's

1 actually three different phones that are being used,
2 correct?

3 A. Yes.

4 Q. Okay. You're on one phone, right?

5 A. Yes.

6 Q. Then there's a person who's identified with the
7 initials OC on a second phone, correct?

8 A. Yes.

9 Q. And then there's a third phone, which is Duende
10 and a person who they identify as Taliban, correct?

11 A. Yes.

12 Q. All right. And on this first page of 22-A-1 --
13 first of all, you didn't complete this transcript,
14 correct?

15 A. I did complete the transcript.

16 Q. You completed -- you prepared this transcript?

17 A. No, I -- I reviewed the transcript.

18 Q. Okay. You reviewed the transcript, right.

19 A. Yes.

20 Q. But when you got this transcript, it was already
21 prepared, right?

22 A. Yes.

23 Q. And, the names of the speakers were already
24 identified as participants on this transcript, correct?

25 A. Yes.

1 Q. All right. So you're not the one who put the
2 name on this first page, Chavez, Jesus, AKA Taliban,
3 correct?

4 A. No.

5 Q. All right. That was -- it was given to you
6 already prepared, correct?

7 A. Yes, it was.

8 Q. All right. Now, in this call, you introduce
9 yourself to this Taliban, correct?

10 A. What page you want me to read?

11 Q. Okay. All right. You know I'm going there
12 already. Okay.

13 So, why don't you turn to page three, the top of
14 page three.

15 MS. AMATO: And we can maybe highlight it.
16 It's the top of the page.

17 BY MS. AMATO:

18 Q. Okay. Do you see on the top where it says "JR"?
19 That's you, correct?

20 A. Yes.

21 Q. All right. And you're basically --

22 MS. MARTINEZ: Objection, Your Honor. The
23 witness should be given a chance to read the page.

24 MS. AMATO: It's the very first part of
25 the -- but that's fine. If he wants to read the whole

1 page, that's fine.

2 THE COURT: You may not remember this, but
3 what will typically happen is, each witness is going to
4 be able to be read the page, and then there's a question
5 about it.

6 MS. AMATO: That's fine.

7 THE COURT: So I'd like to carry on that
8 same procedure with this witness.

9 MS. AMATO: I understand.

10 THE COURT: Thank you.

11 BY MS. AMATO:

12 Q. Mr. Garcia, let me know when you finish reading
13 the page.

14 A. Okay.

15 Okay.

16 Q. All right. Now, so, we're all on the same page
17 of this page --

18 A. Yes.

19 Q. -- I want you to look on the screen, to the
20 portion highlighted, which is the first paragraph, which
21 is you speaking, correct?

22 A. Yes.

23 Q. All right. And you're introducing yourself to
24 this Taliban, right?

25 A. Yes.

1 Q. All right. And you're saying, basically, you're
2 saying, I'm from Silva, I'm Junior. I've been walking
3 along with the shot caller for these homeboys since I
4 was a kid from Park View, right?

5 A. Yes.

6 Q. Okay. And, again, shot caller is basically the
7 leaders, right?

8 A. Yes.

9 Q. Okay. So you're basically telling him that
10 you've been walking with the leaders, right?

11 A. Yes.

12 Q. All right. You don't tell him you're a leader
13 here, do you?

14 A. No.

15 Q. Okay. You just say you're walking with the
16 leaders?

17 A. Yes.

18 Q. But at that point you were already a -- a first
19 word, correct?

20 A. At what point?

21 Q. Well, this phone call is back in June of 2014.

22 A. Yes, I was.

23 Q. All right. But you don't tell him that you're a
24 first word in this call.

25 A. No.

1 Q. All right. And, let's be clear. In this phone
2 conversation this Taliban never says that he was with
3 Duende and Gatuso during the shooting, correct?

4 A. Yes.

5 Q. And you're agreeing with me, correct?

6 A. Yes.

7 Q. In this phone call, in this conversation, this
8 Taliban never says he shot anyone?

9 A. That's correct.

10 Q. And in this phone conversation, this Taliban
11 never says --

12 MS. MARTINEZ: Objection, Your Honor. Can
13 we clarify whether she's talking about the page he has
14 been allowed to review or the entire phone call, which
15 he has not been permitted to review?

16 MS. AMATO: I'm talking about the whole
17 conversation, Your Honor.

18 MS. MARTINEZ: In that case, I request that
19 the witness be allowed to review the entire transcript
20 so that he can actually answer the question for the
21 entire thing, and not just the page he looked at.

22 MS. AMATO: Absolutely, Your Honor.

23 THE COURT: Sir, if you would take your time
24 and read the whole transcript, please.

25 MR. JENKINS: Your Honor, while the witness

1 is reviewing a transcript -- we want to afford him the
2 time as possible -- could we approach briefly?

3 THE COURT: Okay.

4 (Thereupon, the following side-bar
5 conference was had:)

6 MR. JENKINS: Your Honor, at the outset of
7 this trial, I thought the Court made it abundantly clear
8 that all counsel should avoid speaking objections.

9 And today, Your Honor, they have become
10 increasing -- as the day as gone on, both government
11 counsel and at times defense counsel, but, particularly
12 government counsel has been, in my view, making speaking
13 objections in such a manner that it is telegraphing to
14 the witness what his answer should be.

15 And at some point in time, Your Honor, I
16 think it would be appropriate for government counsel to
17 be reminded that the Court has already directed all
18 counsel to avoid speaking objections.

19 THE COURT: Okay. I think that's fair.
20 That's been something I've observed as well. I think
21 what's happening as the trial goes on longer, and we see
22 some of the same witnesses, similar testimony, that
23 people become more animated.

24 But this is a trial, not the last trial
25 we're going to have together, and let's do your job for

1 this case. But don't become too personally involved in
2 it. Just do what you've got to do.

3 MR. JENKINS: Yes, Your Honor.

4 THE COURT: No speaking objections. Stop.
5 (Thereupon, the side-bar conference was
6 concluded.)

7 THE WITNESS: Okay.

8 BY MS. AMATO:

9 Q. Okay. All right. So, now that you've had a
10 chance to review the whole transcript of this phone
11 call, which you were a participant of, I ask you again,
12 nowhere in this conversation does Taliban state that he
13 was with Duende and Gatuso the night of the shooting,
14 correct?

15 A. No.

16 Q. Nowhere in this conversation does Taliban, this
17 Taliban, even discuss that shooting, correct?

18 A. No.

19 Q. Nowhere in this conversation does this Taliban
20 say that he shot anybody when he was with Duende and
21 Gatuso, correct?

22 A. He said -- he said a different way, a gang code,
23 but he didn't mention Gatuso.

24 Q. Well, okay. Where is that?

25 A. Um, when he referred to the, Duende, "he already

1 seen my -- my photo, my picture."

2 Q. Okay. And we're going to get to that word in a
3 minute. But besides that word, where he says, "he's
4 seen my photo," nowhere else in this conversation does
5 Taliban say anything, in code or un- code, about having
6 shot anybody in the presence of Duende and Gatuso,
7 correct?

8 A. No.

9 Q. Or having shot anybody at any time, correct?

10 A. No.

11 Q. All right. Now, we've heard you at length talk
12 about the words that people use when they've shot
13 someone, correct?

14 A. Yes.

15 Q. You use the word "hit"?

16 A. Yes.

17 Q. And in Spanish that's *pegar*, correct?

18 A. Yes.

19 Q. P-e-g-a-r.

20 We don't see "hit" on this page or any other
21 page, correct?

22 A. No.

23 Q. All right. Other words that are used are
24 *plomaso*, correct?

25 A. Yes.

1 MS. AMATO: And that's spelled
2 p-l-o-m-a-s-o.

3 BY MS. AMATO:

4 Q. That's another gang word for to hit, to shoot
5 someone, correct?

6 A. Yes.

7 Q. And that's not a word that this Taliban used,
8 correct?

9 A. No.

10 Q. And, also another word that the gang uses as code
11 is *frijolear*, correct?

12 A. Yes.

13 MS. AMATO: And that's f-r-i-j-o-l-e-a-r.

14 THE WITNESS: Yes.

15 BY MS. AMATO:

16 Q. Another gang word, to hit, is actually *cuetaso*,
17 correct?

18 A. Yes.

19 Q. C-u-e-t-a-s-o, correct?

20 A. Yes.

21 Q. And none of those words are in this transcript,
22 correct?

23 A. Yes.

24 Q. And, what -- what this Taliban was actually
25 saying by the word photo is, he's talking about his

1 references, correct?

2 A. He's talking about -- we talk about before, what
3 a gang member says, "I'm going to put my picture," that
4 means killing. And, picture and photo is almost the
5 same when they use it as a code.

6 Q. Well, he doesn't say "picture" here, correct?

7 A. Yeah, but he says "photo."

8 Q. He says "photo." Okay.

9 A. When you take a photo, eventually it's going to
10 be a picture.

11 Q. And according to you, it's the same thing?

12 A. Yes, in gang code, yes.

13 Q. I see. But he doesn't talk -- the rest of the
14 conversation is all about his references, correct?

15 A. Yes.

16 Q. Right. That's all he talks about, correct?

17 A. Yes.

18 Q. All right. So that's really what he's talking
19 about in this conversation, correct?

20 A. Yes.

21 Q. Now, one of those people that he references is,
22 back on page three, is Blacky, right?

23 A. Yes.

24 Q. And we've already talked about Blacky in the
25 first conversation --

1 A. Yes.

2 Q. -- we talked about, right?

3 And he mentions -- and he doesn't use the word
4 "Blacky," but he uses the word Negrito, correct?

5 A. Yes.

6 Q. And Negrito basically is the same as Blacky,
7 correct?

8 A. Yes.

9 Q. It's the same person, correct?

10 A. Yes.

11 Q. Right. Negrito comes from the word *negro*,
12 correct?

13 A. Yes.

14 Q. Which is the word "black" in Spanish, correct?

15 A. Yes.

16 Q. All right. So's talking about the Blacky that
17 everybody in MS thinks is a rat, correct?

18 A. Yes.

19 Q. And he's putting that out there and he's using it
20 as a reference, correct?

21 A. Yes.

22 Q. All right. And Blacky was a gang member,
23 correct?

24 A. Yes.

25 Q. As we talked about already.

1 And, clearly, this Taliban doesn't know that MS
2 thinks Blacky is a rat, correct?

3 A. Yes.

4 Q. Because otherwise, he wouldn't be throwing
5 Blacky's name out there, would he?

6 A. Yes.

7 Q. You're agreeing with me, correct?

8 A. Yes.

9 Q. All right. And, let's go on to page three, to
10 the portion, it's the one, two, three -- fourth speaker
11 from the bottom of the page.

12 MS. AMATO: If you could highlight that.

13 BY MS. AMATO:

14 Q. Where it says, "Oh, yeah" -- this Taliban is
15 saying, "Oh, yeah, I watch."

16 It's highlighted. Do you see that? Yes?

17 A. Yes.

18 Q. Okay. And so, this Taliban is saying, "Oh, yeah,
19 I watch, I, I was a talking with, with, with, with the
20 homie, Negrito," right?

21 A. Yes.

22 Q. Okay. And that's his way of saying that he had
23 been speaking with this guy Blacky, and he was putting
24 Blacky out as his reference, correct?

25 A. Yes.

1 Q. And he goes on further when he says, the next
2 portion that's highlighted, "It's been -- it's been
3 like -- it's been like, like, like five that I've
4 been -- I've been running around with the homie," right?

5 A. Yes.

6 Q. Okay. So, what -- earlier on direct you said
7 that what he was saying -- what you understood him to
8 say was that he had been wanting to be an MS member
9 since he was five, correct?

10 That's what you --

11 A. Yes.

12 Q. -- told us earlier.

13 But that's not accurate, is it?

14 A. That's the way I -- I -- I kind of understand
15 when I was talking to him.

16 Q. Right. But now that you've had a chance to read
17 all this in context, together, you realize that he's
18 talking about having been running around for five years
19 with this homie, Negrito, correct?

20 A. Yes.

21 Q. All right. Okay. And, you knew that -- you know
22 that Blacky had been locked up, correct?

23 A. Yes.

24 Q. And, you had heard that this Taliban had been
25 locked up, correct?

1 A. Yes.

2 Q. And knew that this Blacky had been locked up for
3 at least five years, correct?

4 A. I don't know how long.

5 Q. You don't know how long. Okay.

6 And going on to the next page, page four, on the
7 very top of page four, he continues to talk about this
8 homie, Blacky, again, because he's using him as a
9 reference, correct?

10 A. Yes.

11 Q. All right. And then, he puts another MS member's
12 name out to use as a reference, and that's Tricky,
13 Tricky, the name Tricky, right?

14 A. Yes.

15 Q. And, that's in the very first paragraph again, he
16 mentions homeboy Tricky. Do you see that?

17 A. Yes.

18 Q. Okay, and we've got that highlighted.

19 And so, again, here, this Taliban is -- as a
20 reference, is throwing out the name Tricky, who is an MS
21 member, to try to say: Hey, I know people in MS and
22 they know me. Correct?

23 A. Yes.

24 Q. All right. But, it turns out that just like
25 Blacky, this guy Tricky had problems with the gang,

1 right?

2 A. Yes.

3 Q. In fact, this guy Tricky ended up getting green
4 lighted, correct?

5 A. Yes.

6 Q. By his own clique?

7 A. That's what I learned.

8 Q. Right. And, again, this Taliban didn't know
9 that, right?

10 A. No.

11 Q. And, there's conversations about that on page
12 four.

13 MS. AMATO: And if we can highlight that.

14 BY MS. AMATO:

15 Q. In the middle of the paragraph, you tell him, you
16 say, "Ah, they killed that homeboy Tricky, man." You
17 see that?

18 A. Yes.

19 Q. And that's you telling him, right?

20 A. Yes.

21 Q. And you say, "Yeah, that homeboy is dead,
22 homeboy."

23 And then at the very end of that page, the last
24 portion where you're speaking -- which we can
25 highlight -- and it says, "And, and -- well, as far as I

1 know, it was the same, right, the same Mara. Because
2 the homeboy, right, did some stuff that he shouldn't
3 have done. But that's going to be another problem."

4 So, there, you're telling him that it was his
5 same clique that actually killed him, right?

6 A. The gang.

7 Q. Right, the gang. And -- well, let's go on to the
8 page five, the top of page five.

9 And on the top of page five, again, you're
10 talking to him, you're telling him that Tricky, who was
11 his -- "it was in the homeboy's own house that they
12 dropped him -- dropped in and took him out, homie,"
13 right?

14 A. Not Taliban house.

15 Q. Sorry?

16 A. Not on Taliban house. It was in El Salvador.

17 Q. Right, right, right, no. Exactly. It was in Sal
18 Salvador -- it was in El Salvador that he was killed,
19 right?

20 A. Yes.

21 Q. But what you're telling him here is that it was
22 in his own -- it was in the homeboy's own house,
23 correct?

24 A. Yes.

25 Q. -- that they dropped him. Right.

1 So, again, both of the people that Taliban puts
2 out as references, both had problems with the MS gang,
3 correct?

4 A. Yes.

5 Q. Now, you talked a lot about the rules of MS. And
6 I'm not going to go into all of them, but I do want to
7 point out a few things relative to that.

8 Now, El Salvador has become sort of the homeland
9 of MS, right?

10 A. Yes.

11 Q. Of the gang?

12 A. Yes.

13 Q. They've taken on the leadership role, correct?

14 A. I'm sorry?

15 Q. They've taken on a leadership role, correct?

16 A. Yes.

17 Q. All right. And, so they're the ones who decide
18 the rules, correct?

19 A. Yes.

20 Q. And then they inform the first words and the
21 second words, correct?

22 A. Yes.

23 Q. And they -- they send texts from El Salvador to
24 the United States, with what the rules are, correct?

25 A. They -- they use phones.

1 Q. They use phones. Okay. Well --

2 A. They use text, they use anything they can get in
3 touch with anybody they want to.

4 Q. Right. So they use phones, they call, correct?

5 A. Yes.

6 Q. They text, correct?

7 A. Yes.

8 Q. Did you ever receive text messages of a reminder
9 of the rules?

10 A. Yes.

11 Q. All right. And, and that's also to remind the
12 cliques in the U.S. that, hey, El Salvador is watching
13 them, correct?

14 A. Yes.

15 Q. All right. And, one of the rules, of course, is
16 to respect the homeboy, correct?

17 A. Yes.

18 Q. Respect the gang?

19 A. Yes.

20 Q. Love the gang?

21 A. Yes.

22 Q. And don't make the hood look bad, correct?

23 A. Never heard of that one.

24 Q. You've never heard of that one, don't make the
25 hood look bad?

1 A. No.

2 Q. Don't make the territory look bad?

3 A. No.

4 Q. Would you be surprised if that was a rule?

5 A. Probably they -- they might say in a different
6 way, to protect your territory.

7 Q. Protect your territory. Okay.

8 A. That would be --

9 Q. But it's the same thing, right?

10 A. Yes, but that's the rule that going to make sense
11 to a gang.

12 Q. Right. To protect your territory?

13 A. Yes.

14 Q. Okay. And the territory is really the hood, the
15 same thing, right?

16 A. Yes.

17 Q. So, PVLS, the hood was Culmore, correct?

18 A. Yes.

19 Q. Okay. Where was your hood?

20 A. I didn't have one.

21 Q. Silvas didn't have a hood?

22 A. No. They were -- they were pretty much
23 everywhere they wanted to go.

24 Q. All right. Now, another important rule, of
25 course, was that the homeboys needed to follow the

1 rules, right?

2 A. Yes.

3 Q. It was important for that?

4 A. Yes.

5 Q. And, the homeboys are the soldiers, right?

6 A. Yes.

7 Q. And, so, they're the ones who follow the rules,
8 not make the rules, correct?

9 A. Yes.

10 Q. Because, as we heard, it's El Salvador who makes
11 the rules, right?

12 A. Yes.

13 Q. And it's the first and the second word who make
14 decisions for the clique, right?

15 A. Yes.

16 Q. And it's the soldiers that follow them out?

17 A. Yes.

18 Q. And homeboys aren't supposed to go and go rogue.
19 Do you know what I mean?

20 A. Yes.

21 Q. Okay. They're not supposed to do their own
22 things on behalf of the gang without authorization,
23 correct?

24 A. Yes.

25 Q. They can get in trouble for that, correct?

1 A. Yes.

2 Q. They could get a *calentón*, correct?

3 A. It just depend. They don't have to -- they don't
4 have to ask permission, let's say, if there is a rival
5 gang or they think there is a guy that could be a rival
6 gang, they don't need permission for that, because
7 that's the gang rule. You kill *chavalas*.

8 Q. Right. I understand. But I'm not -- I was just
9 talking in general terms, that it can be a problem for a
10 gang member who acts on behalf of the gang without
11 permission, correct?

12 A. Like I said, just depends.

13 Q. It depends, exactly. So we're in agreement. It
14 depends, right?

15 A. Yes.

16 Q. It can end up in getting a *calentón* for that
17 person, right?

18 A. Yes.

19 Q. It could end up in getting a double *calentón*,
20 right?

21 A. Yes.

22 Q. Which is a 26-second beating, right?

23 A. Yes.

24 Q. It can even end up with a green light?

25 A. Yes.

1 Q. Now, for the MS gang, this June 19th shooting had
2 problems, right?

3 A. Yes.

4 Q. There were problems with that shooting, right?

5 A. Yes.

6 Q. Okay. First thing was, it wasn't authorized, was
7 it?

8 A. But they didn't see it as a problem.

9 Q. Well, okay. Well --

10 A. Like I said, they don't have a problem if it's a
11 rival gang member.

12 Q. All right.

13 A. That's one of the rule.

14 Q. Well, you don't -- okay. Well, let's talk about
15 this then.

16 So, you discussed this with -- on this phone
17 call, the 22-A-1, correct?

18 A. Yes.

19 Q. All right. And, the discussion was specifically
20 that this shooting wasn't authorized. Remember that?
21 Correct?

22 A. Yes.

23 Q. All right. And, in fact, let's turn to page
24 seven. And at this point in this conversation, before
25 we get to that specifically, the third speaker, one,

1 two, three -- the fourth speaker, excuse me, which is
2 you, you say, "Put Duende on for us, homie," right?
3 That's you, correct?

4 A. Yes.

5 Q. Okay. And you had been talking to the Taliban at
6 that point, correct?

7 A. Yes.

8 Q. And you're telling that Taliban at that point to
9 put Duende on.

10 A. Yes.

11 Q. Because they were sharing a phone, correct?

12 A. Yes.

13 Q. All right. So now, from here on out on this
14 conversation, you're talking to Duende, correct?

15 A. Yes.

16 Q. All right. And, when you talking to Duende,
17 you're telling him that -- that this shooting -- you're
18 telling him: Look, there is a problem, and that there
19 was -- because however it was, that you have to keep an
20 eye on what's going to be the benefit for the clique.

21 Right? And I can point you to where you're
22 saying that.

23 A. Yes, please.

24 Q. Okay. It's -- it's highlighted now. It's the
25 large paragraph where it says "JR," in the middle of

1 that paragraph, and it says -- you're saying, "Because
2 how will that benefit the clique, right?" Do you see
3 that?

4 A. I just see, "You didn't say anything." That's
5 what you highlighted.

6 Q. Say that again?

7 A. Well, you start -- you highlighted where it says,
8 "You didn't say anything."

9 Q. Okay. Excuse me. It should -- well, that's
10 fine. We can start from there. It says, "You didn't
11 say anything to the clique, that they were keeping an
12 eye on someone or anything, because how will that
13 benefit the clique, right?"

14 Do you see that?

15 A. Yes.

16 Q. Okay. And then further on, OC is still part of
17 this conversation, too, correct?

18 A. Yes.

19 Q. And, the very last -- he's the very last speaker
20 on the page. Do you see that?

21 A. Yes.

22 Q. And he's -- and he's pointing out that: Hey,
23 there's got to be some notice, correct?

24 He says, "The homie, you know, was saying, you
25 know, right, that fuck, you know, that when it comes to

1 that, there should be a notice, you know, so we can all
2 be there, you know."

3 Do you see that?

4 A. Yes.

5 Q. Okay.

6 THE COURT: Was that a question? Were you
7 asking him did he see it in the transcript, or were you
8 asking him a question about it?

9 MS. AMATO: Well, I was asking him both. I
10 will be more clear. I'll follow up.

11 THE COURT: Ask two questions if you would,
12 thank you.

13 MS. AMATO: All right.

14 BY MS. AMATO:

15 Q. So you see that on the transcript, correct?

16 A. Yes.

17 Q. Say --

18 A. Yes.

19 Q. Okay. And, so, this was all part of the problem
20 that the clique had with this shooting, right?

21 A. Yes.

22 Q. Because there was no notice, correct?

23 A. Yes.

24 Q. All right. And, there was another problem, too,
25 correct?

1 A. I don't know what problem.

2 Q. Okay. All right. The other problem was that the
3 El Salvador leadership wasn't happy with this shooting
4 either, correct?

5 A. Not that I know of.

6 Q. You're not -- know of it. All right.

7 Well, you were aware -- you learned later that
8 the MS guy -- the guy had been shot was an MS member,
9 correct?

10 A. Yes.

11 Q. All right. He was an inactive member at that
12 point, right?

13 A. Yes.

14 Q. He had been given a *paso de hermano*, right?

15 A. Yes.

16 Q. You're familiar with that term, right?

17 A. Yes.

18 MS. AMATO: *Paso* is spelled p-a-s-o, space,
19 d-e, space, *hermano*, h-e-r-m-a-n-o.

20 BY MS. AMATO:

21 Q. And that's basically permission to leave the
22 gang, right?

23 A. Yes.

24 Q. Okay. And so that was the guy that got killed on
25 the night of June the 19th, correct?

1 A. Yes.

2 Q. And so, El Salvador wasn't happy about that, were
3 they?

4 A. I wasn't for sure. I just --

5 Q. Okay. You weren't for sure, but you had heard
6 about that, right?

7 A. Yes.

8 Q. Okay. There were grumblings about it, right?

9 A. Yes.

10 Q. Okay. And, in fact, on page eight -- we can turn
11 to page eight. It's Duende speaking on the very top?

12 A. Yes.

13 Q. And, he's first trying to explain, according to
14 his version of what happened, that the whole thing was
15 all very sudden.

16 MS. AMATO: And then let's highlight the
17 very last sentence.

18 BY MS. AMATO:

19 Q. Which he states, which is, he says, "But I also
20 knows what's going on with those fucking sons of
21 bitches, that it wasn't just any recruit that we killed,
22 man, you know."

23 And OC responds, "All right. Cool, you know.
24 No, well, yeah, you know, that's what the homie was
25 saying, you know, right? That's, that's the problem.

1 You know, right."

2 So, that's who they're talking about. They're
3 talking about the guy who was shot, correct?

4 A. Yes.

5 Q. And then he wasn't just some recruit, he wasn't
6 just some *chavala*, he was an actual MS member?

7 A. At this point they -- they just heard. They are
8 not for sure he was a gang member.

9 Q. Right. But the point is, that's what was being
10 discussed?

11 A. Yes.

12 Q. And so they knew -- in their minds, they thought
13 it was a problem?

14 A. Yes.

15 Q. Okay. Now, there was a third problem with
16 this -- with this shooting. The shooting occurred in
17 the area of Chirilagua, right?

18 A. Yes.

19 Q. According to what you heard, correct?

20 And, that's not where Duende's clique's territory
21 was, was it?

22 A. No.

23 Q. Duende's clique's territory was in Culmore,
24 correct?

25 A. Yes.

1 Q. And, the territory where the shooting occurred
2 was actually another clique's territory, right?

3 A. Yes.

4 Q. Okay. And, in fact, you discussed that in the
5 very first phone call that we talked about with Duende,
6 that it was the Pinos clique territory, right?

7 A. Yes.

8 Q. And it was the Pinos clique's territory, that if
9 anybody should have been doing the shooting, it was them
10 who should have been doing the shooting, correct?

11 A. Yes.

12 Q. All right. And let's just turn, so that we're
13 all clear, back to the transcript 21-A-1, please. And
14 let me know when you have it.

15 A. Yes.

16 Q. All right. Thank you.

17 If you turn to page five. And we're going to
18 highlight it for you as well on the screen. And if
19 you'd like to read the whole page, you can. That's
20 fine.

21 A. Okay.

22 Q. Okay. And, let's just -- now, look at the
23 portion that I've highlighted. And that's you
24 speaking --

25 A. Yes.

1 Q. -- right? JR. And you're saying, "Man, they're
2 in Chirilagua, supposedly Pinos should be the one
3 cleaning, not you guys, right, man"?

4 A. Yes.

5 Q. And that's where you're telling Duende that:
6 Hey, that was the Pinos territory. They're the ones who
7 should have been doing the cleaning up, correct?

8 A. Yes.

9 Q. All right. And so, that was another problem?

10 A. Yes.

11 Q. So, this shooting, this murder of June 19, 2014,
12 had a lot of problems connected to it, right?

13 A. Yes.

14 Q. And, when there are problems, people sometimes
15 have to pay for it, correct?

16 A. Yes.

17 Q. And that could be either a *calentón*, correct?

18 A. Yes.

19 Q. It could be a green light?

20 A. Yes.

21 Q. It could their life?

22 A. Yes.

23 MS. AMATO: No further questions, Your
24 Honor.

25 REDIRECT EXAMINATION

1 BY MS. MARTINEZ:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. All right. You've been asked a lot of questions
5 on cross-examination. I'm going to cover a few things
6 that -- that you were asked about. Okay?

7 A. Yes.

8 Q. You were asked a number of questions about your
9 position as first word --

10 A. Yes.

11 Q. -- in your clique. Why did your clique support
12 you to become first word?

13 A. At that point, there were not that many, and I
14 was the, pretty much the oldest one, that I knew all the
15 guys when the clique start at the beginning. And, they
16 were just asking me if I want to be the first -- the
17 first word.

18 And of course, I first -- I get in contact with
19 my handler to see what they -- they want me to do.

20 Q. When you say that you were the oldest guy around,
21 what do you mean by that?

22 A. Most of the guys that since 2002, '3, they're
23 deported, dead, and they're not here any more.

24 Q. How many gang members do you know in the area who
25 are -- who were there in 2002 and are still there today,

1 not arrested or deported or dead?

2 A. I don't -- I don't -- probably none.

3 MR. LEIVA: Your Honor, object, compound
4 question.

5 THE COURT: It is. Sustained.

6 THE WITNESS: Not that I know --

7 THE COURT: Just a second. She's going to
8 ask one question at a time.

9 BY MS. MARTINEZ:

10 Q. How many gang members do you know, who were there
11 in 2002, and are still on the streets active as gang
12 members today?

13 A. Probably no one.

14 Q. So, when your clique approached you as the oldest
15 member, and asked you about being first word, what did
16 you do?

17 A. I talk to my handler first.

18 Q. Why?

19 A. Because I wasn't -- I wasn't sure what they want
20 me to do. I wasn't out to be in any violence at all.
21 So, it was up to them what -- what was -- they want me
22 to do or come up with any excuse, so that way I was not
23 going to be the first word.

24 Q. Why did you decide to accept your clique's
25 request for you to become first word?

1 A. Because my handler, they agreed to it, and I
2 should take the first word.

3 Q. Did it require you to commit any act of violence?

4 A. No.

5 Q. As first word, did you commit any act of
6 violence?

7 A. No.

8 Q. You were also questioned about the reaction by
9 other gang members after you testified many years ago.

10 A. Yes.

11 Q. You remember that?

12 A. Yes.

13 Q. You said that there were rumors about you as a
14 snitch after your testimony.

15 A. Yes.

16 Q. Were the people who were spreading the rumors
17 from your clique or from another clique?

18 A. From my clique and other cliques as well.

19 Q. Did your clique members challenge your loyalty at
20 that time?

21 A. No.

22 MR. SALVATO: Your Honor, leading question,
23 "did you."

24 THE COURT: Sustained. Questions that begin
25 "did you" are leading.

1 BY MS. MARTINEZ:

2 Q. At that time, was there any challenge by your
3 clique members to your loyalty?

4 A. No.

5 Q. What do you mean by that?

6 A. They didn't ask me anything. And, there was
7 nobody back in El Salvador that we can say, oh, he was a
8 Silva ten years before I was Silva. So, there was
9 nobody, I would say, putting pressure or saying
10 anything. In fact, if there was one, he was probably, I
11 already knew that guy, so there was nothing he could
12 tell them, pretty much.

13 Q. You say you already knew the guy?

14 A. Yes.

15 Q. What does that mean?

16 A. Means probably he was here and he was in jail in
17 El Salvador. And, I mean, he was here and he got
18 deported and he was in jail in El Salvador.

19 Q. What was the significance to you of the fact that
20 your clique did not challenge your loyalty?

21 A. Um, I mean, I was always on the lookout for
22 anything, but they, they didn't come up with something
23 specific to challenge any loyalty.

24 Q. Generally speaking, within MS-13, if a clique
25 specifically challenges a particular homeboy's loyalty,

1 what could happen?

2 A. Um, they gonna -- they gonna ask you probably do
3 a hit or put a mission on you.

4 Q. Was that something that happened to you?

5 A. No.

6 Q. Why not?

7 A. Because nobody told me that.

8 Q. You were asked by a number of defense counsel
9 about payments by the FBI.

10 A. Yes.

11 Q. Payments were -- how were the payments made? In
12 cash, check, or some other way?

13 A. Cash.

14 Q. Do you know why payments were made to you in
15 cash?

16 A. No.

17 Q. If someone had given you a check that said "FBI"
18 on it, for you to have on your person, would that cause
19 you any security concerns?

20 A. Yes.

21 Q. Why?

22 A. Who knows? Um, probably they give me a check, if
23 for some reason I lost the check, it would say my name,
24 probably and who's paying.

25 Q. Why would that worry you?

1 A. Because they will -- they will know that I was
2 working with the police.

3 Q. What might happen to you if the gang knew you
4 were working with the police?

5 A. They going to kill me.

6 Q. When you were paid in cash, were you required to
7 sign any paperwork?

8 A. Yes.

9 Q. Every time?

10 A. Yes.

11 Q. Now, you were asked a number of questions about
12 various illegal acts that you observed or participated
13 in with the approval of FBI.

14 A. Yes.

15 Q. Let's talk about drugs in particular.

16 A. Yes.

17 Q. Were there instances in which you were involved
18 in drug transactions during your time as a CHS?

19 A. Yes.

20 Q. During those instances, what steps, if any, did
21 you take to inform the FBI?

22 A. First, I always was instruction (sic) by the FBI
23 how we have to do the transaction.

24 Q. Were those instructions given before or after the
25 transaction?

1 A. Way before.

2 Q. When did you seek approval for any drug
3 transactions that you engaged in?

4 A. When I knew the gang members were trying to do a
5 drug transaction, I always reach to my handler and
6 explain it, what they were trying to do. Sometimes we
7 were able to avoid it. Sometimes we were not.

8 Q. Why would you explain it to your handler in
9 advance?

10 A. Because that's what I had to do. I had to report
11 to my handler for any -- for anything, pretty much.

12 Q. Why?

13 A. Because that's -- that's what the agreement that
14 I have with them, report to them for anything.

15 Q. When you were given instructions about these
16 specific transactions, would you follow the
17 instructions?

18 A. Yes.

19 Q. Were you given approval to engage in any drug
20 transaction that you wanted to?

21 A. No.

22 Q. When you were given approval, was it for a
23 particular transaction, or was it for weeks or months or
24 years at a time?

25 A. No, just was for a particular transaction.

1 Q. How about weapons? You testified that there was
2 one or two occasions where you were involved in the
3 purchase of a weapon.

4 A. Yes.

5 Q. Is that right?

6 A. Yes.

7 Q. What, if any, steps did you take to notify the
8 FBI about those instances?

9 A. I told them who was selling them, for how much,
10 and when, and how they were going to -- they want me to
11 do it.

12 Q. Was that before or after the transaction took
13 place?

14 A. Before.

15 Q. When did you obtain approval to engage in that
16 transaction or transactions?

17 A. Well, they let me know. It wasn't right away.
18 They had to get the approval, I guess, first.

19 Q. Who let you know?

20 A. My handler.

21 Q. Was -- and, when your handler let you know, was
22 that before or after the transaction with the weapon?

23 A. Before.

24 Q. When you obtained approval to engage in a weapon
25 transaction --

1 A. Yes.

2 Q. -- what did you do with the weapon?

3 A. I give it -- they actually -- the agents were
4 always around the transaction, watching over. And as
5 soon as I was done with the transaction, we would head
6 out to where we met at first, at the first place, and
7 they would -- they will take the gun.

8 Q. You said the agents were always around. Why were
9 the agents always around during transactions like this?

10 A. Because they knew the -- the -- anything could
11 be -- could be a set-up or could be -- could -- I can
12 end up getting killed.

13 Q. There were also questions about you being
14 involved in money being sent to El Salvador.

15 A. Yes.

16 Q. What steps, if any, did you take to inform the
17 FBI about any involvement you might have in sending
18 money to El Salvador?

19 A. It's the same. I was asking how much they were
20 asking, and if that was okay, to get the approval to
21 send the money.

22 Q. What was the purpose of sending money to El
23 Salvador?

24 A. Um, because that -- that's all they care in
25 El Salvador. And that way you can keep them pretty much

1 happy, and that way they don't start bothering you,
2 trying to make stuff up.

3 Q. What was the purpose of you, particularly, being
4 involved in sending money to El Salvador?

5 How did that benefit you?

6 A. Um, I was -- they probably -- they -- I wasn't
7 hearing from them that much, like, if they want to do --
8 they want us to send -- let's say, because we didn't
9 send money, the first thing they're coming up with: Why
10 you guys don't go and steal, or extortions.

11 So, by sending the money, that will, you know,
12 they have the money, there's no need for us, for myself,
13 to put me in that situation.

14 Q. When did you obtain approval from FBI? Before or
15 after sending --

16 A. Before.

17 Q. -- the money?

18 I'm sorry?

19 A. Before.

20 Q. Where did you get the money that you sent to El
21 Salvador?

22 A. From an agent. And sometimes -- well, I get it
23 from agent after, but sometimes from my own pocket.

24 Q. When you got it from your own pocket, were you
25 reimbursed?

1 A. Yes.

2 Q. By who?

3 A. By the FBI.

4 Q. Is that part of the expenses that you were paid
5 for?

6 A. Yes.

7 Q. What was the purpose of the FBI providing you
8 with money so you could make these payments?

9 A. Um, just to reimburse for the money I've been
10 spending from my pocket.

11 Q. You were also asked about a particular drug
12 transaction where you made a purchase. You were asked
13 questions about whether you did it on behalf of your
14 clique. Do you remember that?

15 A. Yes.

16 Q. What do you -- you said you did not do it on
17 behalf of your clique. Could you explain that answer?

18 A. Um, it was -- "on behalf of the clique," it means
19 that you're going to purchase something and make sure
20 the clique knows, and what you're going to do with the
21 drugs.

22 But at this -- at this -- in this transaction, it
23 has nothing to do with the clique. I had to just give
24 it to whoever I want. In that case, we already know
25 that my handler knew about it, so I don't have

1 to explain the clique what I did with the drugs.

2 Q. During that transaction, was your clique aware of
3 the transaction?

4 A. Where?

5 Q. Was your clique aware -- did they know about the
6 transaction?

7 A. Not that I can remember. I can't recall that.

8 Q. In that particular transaction, were -- was it a
9 controlled purchase or a controlled sale?

10 Were you buying or selling?

11 A. I was buying.

12 Q. What did you do with the narcotics after you
13 bought them?

14 A. Give it to my handler, the FBI agents.

15 Q. Why?

16 A. Because that's what I was -- that's what I was
17 supposed to do.

18 Q. When did you obtain approval for that
19 transaction? Before or after it occurred?

20 A. Before.

21 Q. You were asked questions about your employment.

22 A. Yes.

23 Q. Particularly, you were accused of lying about
24 saying that you were employed.

25 A. Yes.

1 Q. You gave some answers about working two to three
2 days a week or working full time.

3 A. Yes.

4 Q. Would you explain further what you mean to the
5 jury?

6 A. Well, sometimes I had to work on different other
7 places. I cannot go into details, but I always was in
8 one place. Because I know it would be -- I know what I
9 was doing with the FBI. It would be easy for any
10 investigator -- or easy to find me and know what I was
11 working, what I was doing, in case somebody was looking
12 for me from the gang, in case they find out that I was
13 working with the police.

14 Q. Are you, in fact, employed?

15 A. Yes.

16 Q. You were asked about various things that you
17 reviewed in preparation for your testimony.

18 A. Yes.

19 Q. You were asked about the transcripts of the
20 calls.

21 A. Yes.

22 Q. And, is it, in fact, true that you reviewed many
23 transcripts of recordings?

24 A. Yes.

25 MR. LEIVA: Your Honor, I object. Leading.

1 THE COURT: Sustained.

2 BY MS. MARTINEZ:

3 Q. What did you review before your testimony?

4 A. The, the calls that I did.

5 Q. In addition to transcripts of calls and the audio
6 of the calls, were there reports by the FBI stating what
7 other witnesses said?

8 MS. AUSTIN: Objection, leading.

9 MS. MARTINEZ: The answer could be yes or
10 no, Your Honor.

11 THE COURT: But a question that suggests the
12 answer is leading. Objection sustained.

13 BY MS. MARTINEZ:

14 Q. Were there anything, in terms of reports or
15 otherwise, beyond these transcripts that you reviewed on
16 paper?

17 A. I don't understand the question. Can you --

18 Q. Well, defense counsel asked you if you reviewed
19 FBI reports. Do you understand what that means, an FBI
20 report?

21 A. Um, I understand it is FBI report, that only they
22 know what the report. I wasn't allowed to see what they
23 report.

24 Q. You weren't allowed to see what?

25 A. Any report of the FBI.

1 Q. You testified both on direct and
2 cross-examination about your knowledge of the clique
3 PVLS.

4 A. Yes.

5 Q. When you first began talking to clique members,
6 PVLS clique members --

7 A. Yes.

8 Q. -- at the very beginning --

9 A. Yes.

10 Q. -- did you know all of the members of PVLS?

11 MR. SALVATO: Leading, "did you," again.

12 THE COURT: I know it's late in the day, but
13 questions that begin "did you" are leading. Objection
14 sustained.

15 BY MS. MARTINEZ:

16 Q. When you first began talking to members of PVLS
17 on the phone at that time --

18 A. Yes.

19 Q. -- were you acquainted -- had you met every
20 single member of PVLS?

21 A. No.

22 Q. Over time, were there more members you began to
23 talk to?

24 A. Yes.

25 Q. Over time, were there more members whom you met?

1 A. Yes.

2 Q. Was there ever a time where you met every single
3 member of PVLS?

4 A. No.

5 MR. LEIVA: Your Honor, I object to
6 foundation. If he's claiming he doesn't know every
7 member, how does he know if he met every member?

8 THE COURT: Objection overruled.

9 BY MS. MARTINEZ:

10 Q. What was your answer?

11 Was there a time when you met every member of
12 PVLS?

13 A. No.

14 Q. Now, one PVLS member in particular, his attorney
15 asked you a question, Pesadilla, do you know Pesadilla?

16 A. Yes.

17 Q. How else do you -- what other name do you know
18 Pesadilla by?

19 A. Lil Tuner.

20 Q. Have you ever met Lil Tuner, Pesadilla?

21 A. Yes.

22 Q. And is that the same Pesadilla you identified in
23 court during direct examination?

24 A. Yes.

25 Q. In addition to meeting Pesadilla -- and to be

1 clear, when I say "meeting," I mean face to face. Have
2 you met Pesadilla face to face?

3 A. Yes.

4 Q. In addition to meeting Pesadilla face to face,
5 have you also spoken to him on the phone?

6 A. Yes.

7 Q. We looked at a transcript of a call between you
8 and Pesadilla. Do you remember that?

9 A. Yes.

10 Q. Was that call the only call you ever had with
11 Pesadilla?

12 A. No.

13 Q. Approximately how many times did you speak to
14 Pesadilla on the phone?

15 A. Say, probably more, more than 40, 50.

16 Q. Over what period of time?

17 A. Over, over 2013 to 2014.

18 Q. On what phone?

19 A. On the one that I have from the FBI.

20 Q. Let's talk about the phone that the FBI gave you.
21 You were asked a lot of questions about that phone.

22 A. Yes.

23 Q. Do you remember off the top of your head the
24 phone number of that phone?

25 A. No.

1 Q. That phone that you had, did it only have one
2 phone number or did it have multiple phone numbers?

3 A. Just one.

4 Q. Is it common for gang members to change their
5 phone numbers at times?

6 A. Yes.

7 Q. Why?

8 A. Because of some -- any gang member, the police,
9 either they get caught or they check their phone,
10 They -- they inform to the rest of the gang for
11 different clique, or their own clique, to change their
12 phone, that somebody might have seen the numbers.

13 Q. Was there ever a time when you changed your phone
14 number?

15 A. Yes.

16 Q. What phone?

17 A. The FBI phone.

18 Q. How many times did you change your phone number
19 on the FBI phone?

20 A. Probably twice.

21 Q. When you changed your phone number on the FBI
22 phone, was it still the same physical phone?

23 A. Yes.

24 Q. Were the calls still recorded?

25 A. Yes.

1 Q. Was there ever a time when you could prevent the
2 calls on that FBI phone from being recorded?

3 A. No.

4 Q. You were asked a lot of questions about things
5 that other gang members said in these phone calls, in
6 these recorded phone calls. Do you recall that?

7 A. Yes.

8 Q. And, in particular, you were asked a number of
9 questions about gang members reporting criminal activity
10 that they had engaged in in the past.

11 A. Yes.

12 Q. When you heard about a crime from a gang member,
13 that had already occurred, what steps, if any, did you
14 take to try to confirm the details of that crime?

15 A. Um, I called them, try to follow up, and try to
16 find the best -- the most information that I could.

17 Q. Why did you do that?

18 A. Um, because sometimes when I learn that someone
19 was killed, and I always thought about the family first,
20 and, about the person, and I just -- I believe I was
21 doing the right thing.

22 Q. When someone told you something that he said he
23 did that was a crime --

24 A. Yes.

25 Q. -- would you just take that person at his word

1 with no other confirmation?

2 A. I will take it at his word and also I will
3 make -- I will follow up, see if that's true.

4 Q. Why would you follow up?

5 A. Just to make sure if that's true, if somebody got
6 killed, or somebody will be hurt, or try to prevent
7 somebody getting hurt.

8 Q. What would you do with that information that you
9 would learn when you would follow up?

10 A. Any information, I was going to talk to my
11 handler, always.

12 Q. During the time when these recordings were being
13 made, how often were you communicating with your handler
14 in any form?

15 A. All the time. All the time by phone, by e-mail,
16 by text.

17 Q. Why?

18 A. Because that's -- that's -- that's one of the
19 things that they -- they need to know, in case they need
20 me to do something or how they want to approach the
21 situation.

22 Q. And when you say need you to do something, what
23 do you mean?

24 A. Probably find out more, something that they might
25 need me to find about the specific crime, or if they

1 already knew about the crime, but they didn't have an
2 idea who did it.

3 Q. We focused in these recordings a lot on crimes
4 that had already occurred at the time of the recording,
5 right?

6 A. Yes.

7 Q. In other recordings, were there times where you
8 learned about crimes before they occurred?

9 A. Yes.

10 Q. What would you do when you learned about a crime
11 that hadn't yet occurred?

12 A. I would always talk to my handler right away.

13 Q. You were asked on cross-examination about gang
14 meetings.

15 A. Yes.

16 Q. And about you attending gang meetings.

17 A. Yes.

18 Q. One of the things you were asked about is whether
19 green lights or death threats were discussed at gang
20 meetings.

21 A. Yes.

22 Q. Were green lights discussed at gang meetings?

23 A. Sometimes.

24 Q. When you went to a gang meeting and heard a green
25 light being discussed, what did you do after the

1 meeting?

2 A. Go to meet up with my handlers, FBI agents.

3 Q. Why?

4 A. Because to let them know -- it was already
5 recorded but I was -- talk to them, what I learned at
6 that meeting.

7 Q. In this case, the three murders that you obtained
8 recordings on, of Lagrima, Lil Guasón, and Julio
9 Urrutia, were you able to find out before the murders
10 that they were going to happen?

11 A. No. It was after.

12 Q. You were asked some questions about a meeting you
13 attended where someone pulled a knife.

14 A. Yes.

15 Q. What kind of meeting was that?

16 A. That's a general meeting.

17 Q. What's a general meeting?

18 A. It's all the cliques from Virginia get together
19 to discuss gang business.

20 Q. Is it allowed to have a knife at a general
21 meeting?

22 A. No. It's a rule that it's not allowed to have
23 any type of weapon at all.

24 Q. What was your reaction when you saw the knife?

25 A. Um, first, my first reaction was to defend

1 myself, because I don't know what he was going to do.

2 Q. Why was that your reaction?

3 A. Because, you know, these guys, they're going to
4 kill you in a heartbeat for no reason.

5 Q. You were also asked about a beating that was
6 given to the guy who pulled the knife.

7 A. Yes.

8 Q. Were you present when the beating occurred?

9 A. No.

10 Q. Where were you?

11 A. I was already on my way to meet with the FBI
12 agents.

13 Q. Why had you left?

14 A. Because I was not -- I was not to be part of any
15 violence.

16 Q. What did you inform the FBI agents when you met
17 with them?

18 A. Everything. They went through what happened at
19 that meeting.

20 Q. You mentioned that on occasion when you attended
21 meetings you would wear recording devices.

22 A. Yes.

23 Q. Were you wearing a recording device at this
24 meeting where the knife was pulled?

25 A. Yes.

1 Q. All right. You were asked about a bunch of these
2 transcripts.

3 A. Yes.

4 Q. I want to go back over a few of them. I hope it
5 won't take too long.

6 A. Okay.

7 Q. Okay. If we could start with Government's
8 Exhibit 10-A-1.

9 MS. MARTINEZ: And I think we can do it on
10 the screen, Mr. Toliver. We will start with the cover
11 page, just so everyone is on the same page of where we
12 are.

13 BY MS. MARTINEZ:

14 Q. Do you recall this March 31st call with Pesadilla
15 and Lil Poison?

16 A. Yes.

17 Q. Go to page seven, please.

18 If you would review -- the whole page if you
19 wish, but specifically that last paragraph by Pesadilla
20 there. My question is just going to be: What is the
21 general topic of conversation here?

22 MS. AUSTIN: Your Honor.

23 THE COURT: Yes.

24 MS. AUSTIN: I'm going to object to this
25 question. This is redirect. The general topic of

1 conversation, I think at this point these questions need
2 to be directed to what was covered on cross.

3 MS. MARTINEZ: This will be directed, Your
4 Honor. I simply want to establish what --

5 THE COURT: All right.

6 MS. MARTINEZ: -- the topic of conversation
7 is before I do the specific question.

8 THE COURT: Objection overruled.

9 (Pause.)

10 Why don't we start here tomorrow?

11 Ladies and gentlemen, please do not discuss
12 the case, nor permit the case to be discussed in your
13 presence. Don't do any research on the case. Don't go
14 on the Internet about the case. Leave your notes in the
15 jury deliberation room.

16 We will resume tomorrow at 10:00 o'clock.

17 Thank you.

18 (Jury excused at 4:59 p.m.)

19 THE COURT: We're in recess -- oh, was there
20 a motion?

21 FURTHER PROCEEDINGS

22 THE COURT: Ms. Ralls --

23 MS. RALLS: Yes.

24 THE COURT: Do you have a motion?

25 MS. RALLS: Yes, Your Honor.

1 THE COURT: All right.

2 MS. MARTINEZ: Your Honor, could we
3 possibly take a five- -- oh. First of all, the witness
4 should probably be excused.

5 THE COURT: You can step down, sir. Sorry.
6 (Thereupon, the witness withdrew from the
7 stand.)

8 MS. MARTINEZ: Could we possibly take a
9 five-minute recess before we get into what I assume will
10 be a lengthy motion?

11 THE COURT: Ten minutes; how about that?

12 MS. MARTINEZ: That would be great. Thank
13 you, Your Honor.

14 MR. CHICK: Your Honor, if I may, before we
15 recess, too. I have to leave to pick up my son. I
16 can't stay for the motion. I'm not trying --

17 THE COURT: Does it affect your client?

18 MR. CHICK: I don't think that it does.

19 THE COURT: Good-bye.

20 MR. CHICK: Thank you.

21 THE COURT: All right.

22 MR. JENKINS: Does that apply to all
23 counsel?

24 THE COURT: Yes. You're not required to
25 stay for every single motion. If you would like to,

1 you're welcome to stay. If you don't want to stay,
2 please feel free to leave.

3 MR. JENKINS: Yes, sir.

4 THE COURT: And have your client excused as
5 well.

6 MR. JENKINS: Thank you.

7 THE COURT: Thank you.

8 Ten-minute recess.

9 (Thereupon, court was recessed at 5:00 p.m.
10 and reconvened at 5:10 p.m.)

11 MS. RALLS: Your Honor, I wanted to address
12 what we see as a pattern of failure to disclose on
13 behalf of the government. It has continually come up
14 throughout this trial as the evidence has been
15 presented, and we would like some action to be taken in
16 reference to that.

17 The failures to disclose that I'm talking
18 about are failure to disclose the lack of
19 qualifications, and the need for special permission for
20 the contract language monitors to testify; the failure
21 to affirmatively disclose the texts between the witness,
22 Junior, and his former handler, Brenda Born; the failure
23 to disclose texts between the witness, Junior, and his
24 new handler that he testified is Fernando Uribe.

25 We have texts from January to June 2015, but

1 nothing before that.

2 Your Honor, again, the failure to disclose
3 immigration benefits provided to the witness, Junior's
4 family, We believe those benefits still have not been
5 disclosed.

6 THE COURT: Let me do this.

7 MS. RALLS: Sure.

8 THE COURT: There is a lot going on in this
9 trial all in one day. And if you have a substantive
10 motion to make, I require you to make it in writing with
11 a brief.

12 And I need to give the government a chance
13 to respond to whatever it is you're doing. And so I
14 really can't -- I don't think it would be fair to me or
15 to you, if you have a very serious motion, you should
16 write a serious brief for me to read.

17 Because I heard you say "motion to dismiss"
18 earlier. And if that's what you're seeking, you
19 actually have to do something in writing to explain to
20 me, how I would do that four weeks into trial.

21 And if you have a grounds for it, file a
22 written motion and give the government time to respond,
23 and I'll hear you after I've read both briefs. But I
24 can't do this orally.

25 MS. RALLS: Yes, sir. I --

1 THE COURT: Okay.

2 MS. RALLS: -- will act accordingly.

3 However, while this witness is on the stand,
4 we would -- or shortly after his testimony has
5 concluded, because of the government's failure to
6 disclose the immigration benefits provided to this
7 witness's family, we would like --

8 THE COURT: When you say "benefits," be
9 specific. What is it that you want that you feel has
10 not been disclosed? What is it you want?

11 MS. RALLS: Your Honor, we believe, based on
12 the government's objections and attempts to --

13 THE COURT: Hold on. Hold on.
14 Okay.

15 MR. ZIMMERMAN: Thank you, Judge.

16 THE COURT: Are you asking for monetary --
17 money given to this witness to pay a lawyer for a visa?
18 What are you asking for?

19 MS. RALLS: Your Honor, based on the
20 government's attempts to limit defense counsel's
21 questioning, it appears to us that there has been some
22 affirmative action taken by the government to secure
23 some sort of immigration benefit for the witness's
24 family.

25 I don't know where or how that has happened,

1 because the government hasn't disclosed it, but
2 something has been done, something in addition to paying
3 money.

4 The amount of --

5 THE COURT: I'm trying to make sure I
6 understand. I heard him say that the government helped
7 his family, someone in his family get a visa, or his
8 family get a visa.

9 I don't know what that means except to infer
10 that somebody did something in an immigration proceeding
11 or at immigration court, and I don't know how it was
12 done.

13 So you want to know about that, right?
14 That's what you want to know?

15 MS. RALLS: I would like to know that, and
16 if --

17 THE COURT: You would like to know if they
18 were given money, right?

19 MS. RALLS: Yes, I would also like to know
20 that.

21 THE COURT: Okay.

22 MS. RALLS: And if any sort of letters,
23 communication, facilitation of some sort, was given to
24 secure those visas.

25 I'm not sure if they were actions taken in

1 United States courts. They may have been communications
2 to other immigration authorities. But, the --

3 THE COURT: Help me with -- help me with why
4 it would be important to know about some other
5 country --

6 MS. RALLS: Your Honor, this --

7 THE COURT: -- if he discloses that the
8 government helped with a U.S. visa.

9 MS. RALLS: Your Honor, I'm not sure that
10 that is what actually happened, and I don't think that's
11 the -- if it is what happened, I don't think it's the
12 only benefit in the immigration realm that this witness
13 has received for his family --

14 THE COURT: Well, let me say this --

15 MS. RALLS: -- due to his cooperation.

16 THE COURT: I don't know if this witness --
17 if this individual has been placed in the Witness
18 Protection Program or not. I don't really know the
19 answer to that question.

20 But I do know that there are limits on what
21 I would have the government disclose to you for purposes
22 of impeachment. It seems to me that *Giglio* material is,
23 did the government give him money or benefits that
24 relate to his testimony.

25 So, yes, if his wife or girlfriend got a

1 visa because the government intervened, that would be
2 *Giglio* material. If his wife or girlfriend got money or
3 paid rent, that would be *Giglio* material.

4 But the fact that the person may have got a
5 visa to go to Mexico or Colombia may not be, because
6 we're only talking about a U.S. visa. You see what I'm
7 saying?

8 So I don't want to -- I don't want to go
9 further than I need to go, and so, I was asking you to
10 give me a list. I wrote down here: Government
11 intervention on visa benefit, money, letters to the
12 service for a visa. Is that it?

13 MS. RALLS: Your Honor, again, I don't need
14 to know which third country may have been involved, but
15 if the government has been in contact with some
16 third-party country in order to encourage the granting
17 of a visa, I would also want to know that.

18 THE COURT: I won't give you that. I won't
19 give you that, if that's what the issue is. I won't
20 give you that.

21 It will be enough to me that you have the
22 three things I just mentioned, which is government
23 intervention for a U.S. visa for him or girlfriend or
24 family, money that was paid to him or to others
25 associated with him, and letters to the service for a

1 visa.

2 And I would not want to, if there's some
3 reference in a letter to, they were relocated to
4 Colombia, that you would come in here and tell the jury
5 that. You understand?

6 MS. RALLS: I understand, Your Honor.

7 THE COURT: Okay. Does that -- can the
8 government do that?

9 MS. MARTINEZ: Of course, Your Honor.

10 I'd like to briefly address the record --
11 address the Court, because I want to make sure that the
12 record is clear, I want to make sure that Your Honor
13 doesn't think that I intentionally misrepresented
14 anything to the Court.

15 What I would like to put on the record, Your
16 Honor, is I have our *Giglio* disclosures here in front of
17 me. Naturally, in the course of a case like this,
18 senior AUSAs who were in charge of certain witnesses do
19 those *Giglio* disclosures themselves.

20 In this case, Mr. Campbell -- this was
21 Mr. Campbell's witness. Mr. Campbell took unexpectedly
22 ill. The *Giglio* disclosures were clearly made well
23 before that. I've relied on those *Giglio* disclosures
24 and believe them to be true.

25 The *Giglio* disclosures do include specific

1 dollar amounts of money for services and for expenses to
2 this person -- to this witness. It also includes
3 specific dollar amounts spent related to family members
4 relocated for -- for security reasons.

5 The letter does not say that family members
6 received any sort of U.S. immigration benefits. And I
7 would agree, Your Honor, that if a family member
8 received from the -- from the FBI, from the -- the
9 investigators, a U.S. immigration benefit, that
10 certainly would be *Giglio*.

11 And I will look into that, and if that
12 additional disclosure needs to be made, I will do that.

13 I just want to be clear to the Court that
14 when I was addressing the Court at the bench, it was my
15 understanding that these disclosures were accurate and
16 that there was no U.S. visa provided to any family
17 member of this witness associated with his cooperation,
18 provided or assisted by the FBI. That was my
19 understanding.

20 I'm going to clear that up and make sure
21 that that's true. If it's not true, if there are
22 additional disclosures as Your Honor just laid out, we
23 will absolutely make those.

24 But I just want to assure the Court that I
25 was not attempting to avoid our *Giglio* obligations or to

1 misrepresent anything to Your Honor or on the record.

2 And, again, I think Your Honor appreciates
3 this, but I want to be clear for the record and for
4 defense counsel, our concerns are about safety and
5 security.

6 The vigorous objections about certain
7 questions are about putting information on the public
8 record, in front of the public, in front of these
9 defendants, about details about this witness and any
10 family he may or may not have, and any location they may
11 or may not be in, or information that could lead someone
12 to figure that information out.

13 That's the nature of the objections, that's
14 the reason for the objections, not to hide any
15 information that should be disclosed or that was
16 disclosed under the United States' *Giglio* obligations,
17 which I, and I know and my co-counsels, take very
18 seriously.

19 But I just want Your Honor to be aware that
20 I was not personally in charge of these *Giglio*
21 obligations, these *Giglio* disclosures, nor was
22 Mr. Tobler. And I will look into it. I am now senior
23 counsel on this case. I will make sure that they
24 accurate. In fact, I plan to look at all of them.

25 But I didn't review them, of Mr. Campbell's,

1 and if there's a mistake to be made, we will rectify --
2 if there was a mistake made, we will rectify it.

3 THE COURT: Well, I appreciate what you just
4 said, but Special Agent Born, who was the witness's
5 handler, told us that she only did a letter for an
6 S Visa that was never received by the immigration
7 authorities.

8 MS. MARTINEZ: Yes, Your Honor.

9 THE COURT: The witness told us that he took
10 the letter to the immigration proceeding. So I find it
11 interesting that she didn't know anything about that.
12 So I want you to talk specifically to her.

13 And Special Agent Uribe has been sitting in
14 this courtroom, and he's the handler -- is he the
15 handler now?

16 MS. MARTINEZ: Yes.

17 THE COURT: Then, you talk to him about what
18 the situation is concerning visas. Because I would
19 expect the handler, who is representing the government
20 with this witness, would know the details of it. And
21 you question them.

22 MS. MARTINEZ: I fully will.

23 May I just request a clarification, Your
24 Honor?

25 THE COURT: Yes.

1 MS. MARTINEZ: Your Honor, some defense
2 counsel, I think it was Ms. Austin, asked that Agent
3 Born be -- be not excused and be able to be called back.

4 We would not typically talk to her while she
5 is still pending as a witness. Would Your Honor
6 nonetheless like me to speak to her about this issue?

7 THE COURT: Ms. Austin?

8 MS. AUSTIN: Your Honor, we are going to
9 plan on recalling Agent Born. If she wants to ask some
10 very specific questions to Agent Born about immigration
11 benefits --

12 THE COURT: I want her to ask about *Giglio*,
13 period.

14 MS. AUSTIN: Well, that's fine.

15 THE COURT: That way we would know, you
16 know, what she knows about *Giglio*.

17 And I don't think I need to articulate
18 *Giglio* for you, Ms. Martinez. But ask her --

19 MS. MARTINEZ: Certainly not, Your Honor.

20 THE COURT: -- about *Giglio*, to make sure we
21 have everything.

22 MS. AUSTIN: That's fine, Your Honor.

23 THE COURT: I don't want to do this twice.

24 MS. MARTINEZ: Happy to do that, Your Honor.
25 I just wanted to make sure we weren't violating any

1 other issue.

2 THE COURT: I appreciate you telling me
3 that. I didn't know that you were relying on what
4 Mr. Campbell prepared. But again, I appreciate your
5 representation, and I'll expect you will follow up with
6 that.

7 Is there anything further, Ms. Ralls?

8 MS. MARTINEZ: We will follow up promptly,
9 Your Honor.

10 MS. RALLS: Your Honor, I would just like to
11 note that I don't believe that that would fully disclose
12 all benefits that have been provided to this witness and
13 his family.

14 I wrote down the question that I was going
15 to ask the witness, which is: Did the United States
16 Government sponsor a visa for family members?

17 When I asked that question, the government
18 objected and specifically requested that I modify my
19 question to state: Did the United States Government
20 sponsor a U.S. visa for family members?

21 Therefore, we have reason to believe that
22 there has been some communication to secure some other
23 visa, and we ask that to be disclosed.

24 THE COURT: All right.

25 MS. RALLS: And with whatever protective

1 measures the Court wants to put in place, just, was an
2 embassy contacted, any --

3 THE COURT: Tell me how that would advance
4 the inquiry of this witness's truthfulness, Ms. Ralls.

5 MS. RALLS: Your Honor, he has a motivation
6 to testify favorably to the government, and the
7 government has a duty to disclose those motivations,
8 that he's been paid money, that he has been reimbursed
9 for expenses, that his family has been paid money for
10 relocation expenses -- which the government did
11 disclose. They disclosed \$6,880 in incidental expenses
12 when relocated for security reasons.

13 But in addition to that, benefits that have
14 been provided to him and his family in the form of
15 forbearance from prosecution, whether informal or
16 formal; and also, immigration benefits are highly
17 relevant to his motivation to stretch the truth, to
18 fabricate and outright lie in order to maintain those
19 benefits for his family.

20 THE COURT: Do you recall my question?

21 My question was: How would it advance the
22 inquiry to know if the United States sponsored a visa
23 application for another country? Can you answer that
24 question?

25 MS. RALLS: Yes, Your Honor. It would show

1 further benefits that this witness indirectly, through
2 his family, has received as a result of his cooperation
3 with the government, and would show further motivation
4 for him to not be truthful. Because, he's been
5 receiving not only immigration benefits for himself, but
6 also immigration benefits for his family. I believe
7 that would show that.

8 THE COURT: I'm not sure how, if you even
9 have the information, it would change the inquiry about
10 his truthfulness. And so, that's my concern.

11 And that is, if the government wrote a
12 letter to a foreign country, if they did that, they
13 could disclose that without disclosing the name of the
14 country. Do you agree with that?

15 MS. RALLS: I do.

16 THE COURT: Okay.

17 Then I want you to make a list, in a motion
18 that you give to the government, and the government will
19 use that list as a road map, and then they will respond
20 to it with whatever response they have.

21 Thank you.

22 Is there anything else?

23 MS. RALLS: Nothing further, Your Honor.

24 THE COURT: And again, I want to be clear
25 with counsel, I'm not going to have motions hearings

1 every day. This is not Judge Ito. This is Judge Lee.
2 We had motions all before trial, okay? So right now I'm
3 in trial. I stay in trial mode.

4 We're in recess. Thank you.

5 (Proceedings concluded at 5:24 p.m.)

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1
2 CERTIFICATE OF REPORTER
3

4 I, Renecia Wilson, an official court
5 reporter for the United States District Court of
6 Virginia, Alexandria Division, do hereby certify that I
7 reported by machine shorthand, in my official capacity,
8 the proceedings had upon the jury trial in the case of
9 UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

10 I further certify that I was authorized and
11 did report by stenotype the proceedings in said jury
12 trial, and that the foregoing pages, numbered 1 to 299,
13 inclusive, constitute the official transcript of said
14 proceedings as taken from my shorthand notes.

15
16 IN WITNESS WHEREOF, I have hereto
17 subscribed my name this 27th day of May, 2016.

18
19 /s/

20 Renecia Wilson, RMR, CRR
21 Official Court Reporter
22
23
24
25